

Chapter 581 Oregon Department of Education

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DIVISION 1

PROCEDURAL RULES

581-001-0000

Notice of Proposed Rule

(1) Before permanently adopting, amending or repealing any rule, the State Board of Education shall give notice of the proposed adoption, amendment or repeal:

(a) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date of the rule to be adopted;

(b) By mailing or e-mailing, at least 28 days before the effective date of the rule, a copy of the notice to persons on the State Board of Education's mailing list established pursuant to ORS 183.335(8);

(c) By mailing or e-mailing a copy of the notice to the legislators specified in ORS 183.335(15) at least 49 days before the effective day of the rule;

(d) By mailing or e-mailing a copy of the notice to the following persons, organizations or publications:

- (A) Associated Press;
- (B) Oregon Education Investment Board;
- (C) Chancellor's Office, Oregon University System;
- (D) Community Colleges and Workforce Development Department;
- (E) Teacher Standards and Practices Commission;
- (F) Early Learning Council;
- (G) School districts, education service districts and public charter schools;
- (H) Confederation of Oregon School Administrators;
- (I) Oregon Community College Association;
- (J) Oregon Education Association;
- (K) Oregon Federation of Teachers;
- (L) Oregon School Boards Association;
- (M) Oregon School Employees Association;
- (N) Oregon Association of Education Service Districts;
- (O) Chalkboard Project;
- (P) Stand for Children;
- (Q) Disability Rights Oregon;
- (R) Other established educational, student and parent organizations that have submitted mailing or e-mailing addresses; and
- (S) Capitol Press Room

(3) Persons who wish to be placed on the State Board of Education's mailing or e-mailing list may request in writing or by e-mailing that the Department of Education send to the person copies of its notice of proposed rulemaking.

(4) The Department may update the mailing and e-mailing lists described in this rule annually by requesting persons to confirm that they wish to remain on the lists. If a person does not respond to a request for confirmation within 28 days of the date the Department sends the request, the Department will remove the person from the mailing and e-mailing lists. Any person removed from the mailing or e-mailing lists will be returned to the mailing or e-mailing list upon request, provided that the person provides a mailing address or e-mailing address to which notice may be sent.

(5) Prior to any adoption, amendment or repeal of a rule (including policies and procedures) related to the implementation of the Individuals with Disabilities Education Act (IDEA) the Department shall:

(a) Provide notice to the mailing and e-mailing groups maintained under this rule at least 30 days prior to the effective date of the rule;

(b) Provide any notice necessary to ensure that persons and institutions affected by the rule have a reasonable opportunity to provide public comments;

(c) Conduct a public hearing on the rule and provide notice of the public hearing at least 30 days prior to the date of the hearing; and

(d) Review and consider all public comments received during the public hearing or during the public comment period.

Stat. Auth.: ORS 183.335 & 183.341(4)

Stats. Implemented: ORS 183.335

581-001-0002

Authorization for Employee to Appear on Behalf of Agency in Certain Hearings

(1) Subject to the approval of the Attorney General, an officer or employee of the Department of Education is authorized to appear on behalf of the agency in the following types of hearings conducted by this agency or the Office of Administrative Hearings:

(a) Appeals under ORS 326.603 and OAR 581-021-0500 relating to an applicant's employment or eligibility to contract with a school district based on the results of a criminal background check; and.

(b) Appeals under ORS 820.110 and OAR 581-053-0060 relating to school buses and actions taken by the Department against a certificate or permit holder. These may include suspensions, revocations or refusals of certificates or permits.

(2) The Department representative may not make legal argument on behalf of the agency.

(a) "Legal argument" includes arguments on:

(A) The jurisdiction of the agency to hear the contested case;

(B) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency; and

(C) The application of court precedent to the facts of the particular contested case proceeding.

(b) "Legal argument" does not include presentation of motions, evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments on:

(A) The application of the statutes or rules to the facts in the contested case;

(B) Comparison of prior actions of the agency in handling similar situations;

(C) The literal meaning of the statutes or rules directly applicable to the issues in the contested case;

(D) The admissibility of evidence; and

(E) The correctness of procedures being followed in the contested case hearing.

Stat. Auth.: ORS 183.452

Stats. Implemented: ORS 183.452

Hist.: EB 1-1995, f. & cert. ef. 1-24-95; ODE 25-2016, f. & cert. ef. 4-7-16

Hist.: 1EB 206, f. 12-5-75, ef. 12-26-75; Renumbered from 581-061-0040, 4-1-

581-001-0005

Model Rules of Procedure

Pursuant to the provisions of ORS 183.341, the State Board of Education adopts the Attorney General's Model Rules of Procedure under the Administrative Procedure Act in effect on January 1, 2012, except for special education due process hearings authorized under ORS 343.165, special education complaint investigations under 343.041(3), and rulemaking relating to the implementation of Individuals with Disabilities Act, which shall be heard in accordance with rules of the State Board of Education implementing the federal law, Individuals with Disabilities Education Act, in effect as of January 1, 2012

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Department of Education.]

Stat. Auth.: ORS 183

Stats. Implemented: ORS 183.341

Hist.: 1EB 2, f. 12-22-58; 1EB 125, f. 11-4-71, ef. 11-15-71; 1EB 160, f. 11-2-73, ef. 11-25-73; Renumbered from 581-061-0035, 4-1-76; 1EB 222, f. 3-22-76, ef. 4-1-76; 1EB 14-1978, f. & ef. 4-3-78; 1EB 7-1980, f. & ef. 4-17-80; 1EB 20-1981(Temp), f. 12-29-81, ef. 12-31-81; 1EB 11-1982, f. & ef. 3-24-82; 1EB 2-1984, f. 2-17-84, ef. 5-8-84; 1EB 22-1986, f. & ef. 7-14-86; EB 2-1995, f. & cert. ef. 1-24-95; ODE 2-2006(Temp), f. & cert. ef. 2-14-06 thru 8-1-06; Administrative correction 8-22-06; ODE 4-2007, f. & cert. ef. 2-21-07; ODE 6-2011, f. & cert. ef. 4-22-11; ODE 10-2012, f. 3-30-12, cert. ef. 4-2-12

76; 1EB 8-1980, f. & ef. 4-17-80; 1EB 15-1984, f. & ef. 9-27-84; EB 11-1994,

581-001-0016

Deputy Superintendent of Public Instruction

Except as otherwise designated or limited by the Governor pursuant to ORS 326.300:

(1) References to the "Superintendent of Public Instruction" in rules, policies or in motions adopted by the State Board of Education shall be considered references to the Superintendent of Public Instruction and the Deputy Superintendent of Public Instruction.

f. & cert. ef. 10-3-94; ODE 9-2012, f. 3-30-12, cert. ef. 4-2-12

(2) The Deputy Superintendent shall perform any act or duty which the State Board of Education has designated by rule, policy or vote to the Superintendent of Public Instruction.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.300 & 326.310

Hist.: ODE 24-2012(Temp), f. 9-13-12, cert. ef. 9-17-12 thru 3-15-13; ODE 1-2013, f. & cert. ef. 1-15-13

581-001-0053

Parking Rules (OSSD)

(1) There shall be no charge to employees of the Oregon State Schools for the Deaf for parking automobiles at the school or for using bicycle racks provided by the Department.

(2) The Department may issue parking permits to other employees who wish to park at the school. The parking rate for such permits will be one-half of the O rider permits issued for the Pringle site rounded to the nearest half dollar.

(3) The Department provides parking for official business only, unless other arrangements are expressly made for employees (during working hours), visitors, commercial service, and state-owned vehicles. Persons who fail to comply with this rule shall forfeit their parking privileges, and be subject to the enforcement provisions specified in OAR 581-023-0052(12). The Department may provide the following types of additional parking:

(a) Specially marked or designated free parking for the temporary use of individuals with handicaps visiting state offices. Vehicles occupying such spaces shall bear the appropriate identifying plate or decal sticker issued by the Motor Vehicles Division;

(b) Time-limited free spaces for use by persons transacting business in state offices. No state employee shall abuse this class of parking;

(c) Free spaces designated for commercial loading and service vehicle use only.

(4) Provisions for safety and enforcement set forth in OAR 581-001-0052(11) and (12) shall apply as well to parking facilities at the Oregon State School for the Deaf.

(5) Effective date of these amendments shall be September 1, 1988.

Stat. Auth.: ORS 98, 276 & 591

Stats. Implemented: ORS 276.591 & 276.595

Hist.: 1EB 19-1981(Temp), f. & ef. 12-23-81; 1EB 8-1982, f. & ef. 3-24-82; 1EB 13-1986, f. 4-25-86, ef. 4-28-86; EB 33-1988, f. 8-3-88, cert. ef. 9-1-88; ODE 12-2009, f. & cert. ef. 12-10-09

581-001-0100

Audit and Other Financial Appeals

(1)(a) This rule establishes the process to be used by the Department of Education for addressing the overpayment or underpayment of State School Funds from a closed year to a school district, education service district, public charter school or other program based on information received by the department in an audit or other report. A year is closed on the June 30 that is two years after the fiscal year began. For example, the fiscal year beginning July 1, 2008 is closed on June 30, 2010.

(b) The department may also use the process established by this rule for addressing the overpayment or underpayment of other state funds to a school district, education service district, public charter school or other program based on information received by the department in an audit or other report.

(c) Other reports received by the department that may be the basis to determine that an overpayment or underpayment has been made include but are not limited to information provided by a district, school or program or information from a department investigation.

(d) The department will only seek to recover payments or will pay an amount under this rule if the department received the audit or report that the overpayment or underpayment is based upon within five years of the date that the year was closed. For example, for the fiscal year beginning July 1, 2008, the department will only seek to recover or make payments based on audits or reports involving that fiscal year that were received by the department on or before June 30, 2015.

(e) The department will not seek to recover and will not pay amounts under this rule of \$750 or less.

(2) The department shall determine whether there has been an overpayment or underpayment of funds upon receipt of an audit or other report and whether the department will seek an adjustment of funds based on the audit or report. The department shall consider the following when making its determination:

(a) Applicable statutes, rules and policies;

(b) Information from the audit or report and any recommendations made in the audit or report;

(c) Any other relevant information received by the department relating to the overpayment or underpayment of funds. This may include information from an investigation conducted by the department; and

(d) Prior determinations of the department on overpayment or underpayments of funds that involved the same statutes, rules or policies or similar facts.

(3)(a) The department shall notify in writing the school district, education service district, public charter school or program of, at a minimum, the following:

(A) The department's determination including the amount of the overpayment or underpayment;

(B) The basis for the determination; and

(C) The time period in which the overpayment or underpayment occurred.

(b) The department shall include a copy of this rule with the notification.

(4) The school district, education service district, public charter school or program may appeal the determination made under section (3) of this rule to the department. The appeal must be received by the department within 60 calendar days of the date of the notice and must:

(a) Be in writing;

(b) State the reasons for the appeal; and

(c) Be signed by the superintendent or other official with authority to make the appeal.

(5) Within 60 calendar days of receiving the appeal, the department shall notify in writing the school district, education service district, public charter school or program of the department's decision regarding the appeal.

(6) If the school district, education service district, public charter school or program does not appeal the determination; or if the department renders a decision on an appeal that there has been an overpayment or underpayment of funds, the department shall notify in writing the school district, education service district, public charter school or program of:

(a) The amount of the overpayment or underpayment;

(b) The time period for correcting the overpayment or underpayment; and

(c) The method for paying or collecting the funds.

(7) The department shall establish the time period for correcting any overpayment using the "Repayment Calculator" established by the School Finance Unit of the department. The department shall make the Repayment Calculator available upon request.

(8) The methods for paying or collecting the funds may include, but are not limited to:

(a) Invoices for payment.

(b) Transferring funds.

(c) In the case of State School Fund payments, adjusting subsequent payments from the State School Fund to the school district, education service district or program.

(d) In the case of other state funds, adjusting subsequent payments from those funds to the school district, education service district, public charter school or program.

(9) The school district, education service district, public charter school or program may appeal the determination of the repayment period or method of payment made under section (5) of this rule to the department. The appeal must be received by the department within 60 calendar days of the date of the notice and must:

(a) Be in writing;

(b) Establish through auditable, verifiable data that the repayment period or method of payment established in section (6) of this rule creates extreme financial hardship;

(c) Contain a statement that the information is certified as being accurate and complete; and

(d) Be signed by the superintendent or other official with authority to make the appeal.

(10) The school district, education service district, public charter school or program may propose in the appeal an alternative time period for repayment of the funds.

(11) Within 60 calendar days of receiving the appeal, the department shall notify in writing the school district, education service district, public charter school or program of the department's decision regarding the appeal. The department shall consider the following when making its determination of the time period for repayment of funds:

(a) Applicable statutes, rules and policies;

(b) Information from the audit or report and any recommendations made in the audit or report regarding the repayment period or method of payment;

(c) Any other relevant information received by the department relating to the overpayment or underpayment of funds;

(d) The financial situation of the school district, education service district, public charter school or program; and

(e) Prior determinations of the department on overpayment or underpayments of funds that involved the same statutes, rules or policies or similar facts and were made following the process prescribed by this rule.

(12) After the time period for the appeal has expired under section (11) of this rule or after the department has notified the school district, education service district, public charter school or program of the department's decision regarding the appeal, the department shall proceed to pay or collect the funds.

(13) A school district, education service district, public charter school or program may request in writing at the same time as when the district, school or program files an appeal under section (4) or (9) of this rule:

(a) A public meeting with the department. If the department grants the meeting, the department will follow statutes and rules that apply to public meetings.

(b) A mediation with the department relating to the issues that are the subject of the appeal. If the department agrees to the mediation, the mediation will be conducted by a mediator approved by the department and the department will not pay more than half the cost of the mediation.

(14)(a) The Superintendent of Public Instruction delegates to the department the authority to make corrections to distribution from the State School Fund for any year that is closed based on ORS 327.120 and the process established by this rule.

(b) The superintendent shall specify which department staff has the authority to make the determinations required by this rule. The determinations required in this rule may only be made by the superintendent or deputy superintendent.

(15) This rule first applies to the overpayment or underpayment of state funds based on information received by the department in an audit or other report on or after January 1, 2009.

Stat. Auth.: ORS 326.051, 327.125

Stats. Implemented: ORS 326.111, 327.006-327.133

Hist.: 1EB 9-1982, f. & ef. 3-24-82; ODE 14-2007(Temp), f. & cert. ef. 7-6-07 thru 1-2-08; Administrative Correction 1-24-08; ODE 29-2008, f. 12-16-08, cert. ef. 12-19-08

581-001-0105

Establishing Fees for Public Records

(1) The Oregon Department of Education may charge a fee of twenty-five (25) cents per page for supplying copies of public records on request.

(2) The Department may charge an additional fee reasonably calculated to provide reimbursement for costs incurred in locating, compiling, editing or otherwise processing such records to make them available for inspection, and for costs incurred in locating, compiling, editing or otherwise processing such records to make them available for inspection, and for costs of conveying such records to the requester. Employee time required for such purposes shall be billed at a rate not to exceed cost of employee time to the Department.

(3) No additional fee will be charged for providing records in an alternative format to individuals with vision or hearing impairments when required by the Americans with Disabilities Act.

(4) A Deputy Superintendent may reduce or waive fees when:

(a) The time spent making the records available was negligible; or

(b) Supplying the requested records is within the normal scope of Department activity; or

(c) Payment would make extreme financial hardship upon requester.

Stat. Auth.: ORS 326.325

Stats. Implemented: ORS 192.440

Hist.: 1EB 16-1985, f. & ef. 7-3-85; EB 13-1994, f. & cert. ef. 10-3-94

581-001-0110

Confidentiality and Inadmissibility of Mediation Communications

(1) The words and phrases used in this rule have the same meaning as given to them in ORS 36.110 and 36.234.

(2) Nothing in this rule affects any confidentiality created by other law. Nothing in this rule relieves a public body from complying with the Public Meetings Law, ORS 192.610 to 192.690. Whether or not they are confidential under this or other rules of the agency, mediation communications are exempt from disclosure under the Public Records Law to the extent provided in 192.410 to 192.505.

(3) This rule applies only to mediations in which the agency is a party or is mediating a dispute as to which the agency has regulatory authority. This rule does not apply when the agency is acting as the "mediator" in a matter in which the agency also is a party as defined in ORS 36.234.

(4) To the extent mediation communications would otherwise be compromise negotiations under ORS 40.190 (OEC Rule 408), those mediation communications are not admissible as provided in 40.190 (OEC Rule 408), notwithstanding any provisions to the contrary in section (9) of this rule.

(5) Mediations Excluded. Sections (6)–(10) of this rule do not apply to:

(a) Mediation of workplace interpersonal disputes involving the interpersonal relationships between this agency's employees, officials or employees and officials, unless a formal grievance under a labor contract, a tort claim notice or a lawsuit has been filed; or

(b) Mediation in which the person acting as the mediator will also act as the hearings officer in a contested case involving some or all of the same matters;

(c) Mediation in which the only parties are public bodies;

(d) Mediation involving two or more public bodies and a private party if the laws, rule or policies governing mediation confidentiality for at least one of the public bodies provide that mediation communications in the mediation are not confidential;

(e) Mediation involving 15 or more parties if the agency has designated that another mediation confidentiality rule adopted by the agency may apply to that mediation.

(6) Disclosures by Mediator. A mediator may not disclose or be compelled to disclose mediation communications in a mediation and, if disclosed, such communications may not be introduced into evidence in any subsequent administrative, judicial or arbitration proceeding unless:

(a) All the parties to the mediation and the mediator agree in writing to the disclosure; or

(b) The mediation communication may be disclosed or introduced into evidence in a subsequent proceeding as provided in subsections (c)–(d), (j)–(l) or (o)–(p) of section (9) of this rule.

(7) Confidentiality and Inadmissibility of Mediation Communications. Except as provided in sections (8)–(9) of this rule, mediation communications are confidential and may not be disclosed to any other person, are not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent proceeding, or introduced as evidence by the parties or the mediator in any subsequent proceeding.

(8) Written Agreement. Section (7) of this rule does not apply to a mediation unless the parties to the mediation agree in writing, as provided in this section, that the mediation communications in

the mediation will be confidential and/or nondiscoverable and inadmissible. If the mediator is the employee of and acting on behalf of a state agency, the mediator or an authorized agency representative must also sign the agreement. The parties' agreement to participate in a confidential mediation must be in substantially the following form. This form may be used separately or incorporated into an "agreement to mediate." [Form not included. See ED.NOTE.]

(9) Exceptions to confidentiality and inadmissibility.

(a) Any statements, memoranda, work products, documents and other materials, otherwise subject to discovery that were not prepared specifically for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding.

(b) Any mediation communications that are public records, as defined in ORS 192.410(4), and were not specifically prepared for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential or privileged under state or federal law.

(c) A mediation communication is not confidential and may be disclosed by any person receiving the communication to the extent that person reasonably believes that disclosing the communication is necessary to prevent the commission of a crime that is likely to result in death or bodily injury to any person. A mediation communication is not confidential and may be disclosed in a subsequent proceeding to the extent its disclosure may further the investigation or prosecution of a felony crime involving physical violence to a person.

(d) Any mediation communication related to the conduct of a licensed professional that is made to or in the presence of a person who, as a condition of his or her professional license, is obligated to report such communication by law or court rule is not confidential and may be disclosed to the extent necessary to make such a report.

(e) The parties to the mediation may agree in writing that all or part of the mediation communications are not confidential or that all or part of the mediation communications may be disclosed and may be introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential, privileged or otherwise prohibited from disclosure under state or federal law.

(f) A party to the mediation may disclose confidential mediation communications to a person if the party's communication with that person is privileged under ORS Chapter 40 or other provision of law. A party to the mediation may disclose confidential mediation communications to a person for the purpose of obtaining advice concerning the subject matter of the mediation, if all the parties agree.

(g) An employee of the agency may disclose confidential mediation communications to another agency employee so long as the disclosure is necessary to conduct authorized activities of the agency. An employee receiving a confidential mediation communication under this subsection is bound by the same confidentiality requirements as apply to the parties to the mediation.

(h) A written mediation communication may be disclosed or introduced as evidence in a subsequent proceeding at the discretion of the party who prepared the communication so long as the communication is not otherwise confidential under state or federal law and does not contain confidential information from the mediator or another party who does not agree to the disclosure.

(i) In any proceeding to enforce, modify or set aside a mediation agreement, a party to the mediation may disclose mediation communications and such communications may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of mediation communications or agreements to persons other than the parties to the agreement.

(j) In an action for damages or other relief between a party to the mediation and a mediator or mediation program, mediation communications are not confidential and may be disclosed and may be introduced as evidence to the extent necessary to prosecute

or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of the mediation communications or agreements.

(k) When a mediation is conducted as part of the negotiation of a collective bargaining agreement, the following mediation communications are not confidential and such communications may be introduced into evidence in a subsequent administrative, judicial or arbitration proceeding:

(A) A request for mediation; or

(B) A communication from the Employment Relations Board Conciliation Service establishing the time and place of mediation; or

(C) A final offer submitted by the parties to the mediator pursuant to ORS 243.712; or

(D) A strike notice submitted to the Employment Relations Board.

(l) To the extent a mediation communication contains information the substance of which is required to be disclosed by Oregon statute, other than ORS 192.410 to 192.505, that portion of the communication may be disclosed as required by statute.

(m) Written mediation communications prepared by or for the agency or its attorney are not confidential and may be disclosed and may be introduced as evidence in any subsequent administrative, judicial or arbitration proceeding to the extent the communication does not contain confidential information from the mediator or another party, except for those written mediation communications that are:

(A) Attorney-client privileged communications so long as they have been disclosed to no one other than the mediator in the course of the mediation or to persons as to whom disclosure of the communication would not waive the privilege; or

(B) Attorney work product prepared in anticipation of litigation or for trial; or

(C) Prepared exclusively for the mediator or in a caucus session and not given to another party in the mediation other than a state agency; or

(D) Prepared in response to the written request of the mediator for specific documents or information and given to another party in the mediation; or

(E) Settlement concepts or proposals, shared with the mediator or other parties.

(n) A mediation communication made to the agency may be disclosed and may be admitted into evidence to the extent the State Superintendent, Associate Superintendent or designee determines that disclosure of the communication is necessary to prevent or mitigate a serious danger to the public's health or safety, and the communication is not otherwise confidential or privileged under state or federal law.

(o) The terms of any mediation agreement are not confidential and may be introduced as evidence in a subsequent proceeding, except to the extent the terms of the agreement are exempt from disclosure under ORS 192.410 to 192.505, a court has ordered the terms to be confidential under 17.095 or state or federal law requires the terms to be confidential.

(p) The mediator may report the disposition of a mediation to the agency at the conclusion of the mediation so long as the report does not disclose specific confidential mediation communications. The agency or the mediator may use or disclose confidential mediation communications for research, training or educational purposes, subject to the provisions of ORS 36.232(4).

(10) When a mediation is subject to section (7) of this rule, the agency will provide to all parties to the mediation and the mediator a copy of this rule or a citation to the rule and an explanation of where a copy of the rule may be obtained. Violation of this provision does not waive confidentiality or inadmissibility.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth. ORS 36.224

Stats. Implemented: ORS 36.224, 36.228, 36.230 & 36.232

Hist.: ODE 7-2001, f. & cert. ef. 1-29-01

581-001-0115

Confidentiality and Inadmissibility of Workplace Interpersonal Dispute Mediation Communications

(1) This rule applies to workplace interpersonal disputes, which are disputes involving the interpersonal relationships between this agency's employees, officials or employees and officials. This rule does not apply to disputes involving the negotiation of labor contracts or matters about which a formal grievance under a labor contract, a tort claim notice or a lawsuit has been filed.

(2) The words and phrases used in this rule have the same meaning as given to them in ORS 36.110 and 36.234.

(3) Nothing in this rule affects any confidentiality created by other law.

(4) To the extent mediation communications would otherwise be compromise negotiations under ORS 40.190 (OEC Rule 408), those mediation communications are not admissible as provided in ORS 40.190 (OEC Rule 408), notwithstanding any provisions to the contrary in section (9) of this rule.

(5) Disclosures by Mediator. A mediator may not disclose or be compelled to disclose mediation communications in a mediation and, if disclosed, such communications may not be introduced into evidence in any subsequent administrative, judicial or arbitration proceeding unless:

(a) All the parties to the mediation and the mediator agree in writing to the disclosure; or

(b) The mediation communication may be disclosed or introduced into evidence in a subsequent proceeding as provided in subsections (c) or (h)–(j) of section (7) of this rule.

(6) Confidentiality and Inadmissibility of Mediation Communications. Except as provided in section (7) of this rule, mediation communications in mediations involving workplace interpersonal disputes are confidential and may not be disclosed to any other person, are not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent proceeding, or introduced into evidence by the parties or the mediator in any subsequent proceeding so long as:

(a) The parties to the mediation and the agency have agreed in writing to the confidentiality of the mediation; and

(b) The person agreeing to the confidentiality of the mediation on behalf of the agency:

(A) Is neither a party to the dispute nor the mediator; and

(B) Is designated by the agency to authorize confidentiality for the mediation; and

(C) Is at the same or higher level in the agency than any of the parties to the mediation or who is a person with responsibility for human resources or personnel matters in the agency, unless the agency head or member of the governing board is one of the persons involved in the interpersonal dispute, in which case the Governor or the Governor's designee.

(7) Exceptions to confidentiality and inadmissibility.

(a) Any statements, memoranda, work products, documents and other materials, otherwise subject to discovery that were not prepared specifically for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding.

(b) Any mediation communications that are public records, as defined in ORS 192.410(4), and were not specifically prepared for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential or privileged under state or federal law.

(c) A mediation communication is not confidential and may be disclosed by any person receiving the communication to the extent that person reasonably believes that disclosing the communication is necessary to prevent the commission of a crime that is likely to result in death or bodily injury to any person. A mediation communication is not confidential and may be disclosed in a subsequent proceeding to the extent its disclosure may further the investigation or prosecution of a felony crime involving physical violence to a person.

(d) The parties to the mediation may agree in writing that all or part of the mediation communications are not confidential or that all or part of the mediation communications may be disclosed and may be introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential, privileged or otherwise prohibited from disclosure under state or federal law.

(e) A party to the mediation may disclose confidential mediation communications to a person if the party's communication with that person is privileged under ORS Chapter 40 or other provision of law. A party to the mediation may disclose confidential mediation communications to a person for the purpose of obtaining advice concerning the subject matter of the mediation, if all the parties agree.

(f) A written mediation communication may be disclosed or introduced as evidence in a subsequent proceeding at the discretion of the party who prepared the communication so long as the communication is not otherwise confidential under state or federal law and does not contain confidential information from the mediator or another party who does not agree to the disclosure.

(g) In any proceeding to enforce, modify or set aside a mediation agreement, a party to the mediation may disclose mediation communications and such communications may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of mediation communications or agreements to persons other than the parties to the agreement.

(h) In an action for damages or other relief between a party to the mediation and a mediator or mediation program, mediation communications are not confidential and may be disclosed and may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of the mediation communications or agreements.

(i) To the extent a mediation communication contains information the substance of which is required to be disclosed by Oregon statute, other than ORS 192.410 to 192.505, that portion of the communication may be disclosed as required by statute.

(j) The mediator may report the disposition of a mediation to the agency at the conclusion of the mediation so long as the report does not disclose specific confidential mediation communications. The agency or the mediator may use or disclose confidential mediation communications for research, training or educational purposes, subject to the provisions of ORS 36.232(4).

(8) The terms of any agreement arising out of the mediation of a workplace interpersonal dispute are confidential so long as the parties and the agency so agree in writing. Any term of an agreement that requires an expenditure of public funds, other than expenditures of \$1,000 or less for employee training, employee counseling or purchases of equipment that remain the property of the agency, may not be made confidential.

(9) When a mediation is subject to section (6) of this rule, the agency will provide to all parties to the mediation and to the mediator a copy of this rule or an explanation of where a copy of the rule may be obtained. Violation of this provision does not waive confidentiality or inadmissibility.

Stat. Auth.: ORS 36.224

Stats.: Implemented: ORS 36.230(4)

Hist.: ODE 7-2001, f. & cert. ef. 1-29-01

581-001-0125

Administration of Intergovernmental Agreements

(1) For purposes of the rule:

(a) "Agreement to Agree" (ATA) is a written agreement between the Department and a public entity that contains contractual provisions, which can be used in certain future Intergovernmental Agreements between the parties through either incorporation by reference or attachment. Examples of an Agreement to Agree include, but are not limited to:

(A) A non-binding Price Agreement between the Department and a public entity under which the Department may issue purchase orders that create a binding agreement; and

(B) A document of understanding between the Department and a public entity, which identifies potential tasks or services the Department may request the public entity to perform, but are not specifically identified until the Department issues a purchase order or work order that creates a binding agreement.

(b) "Department" means the Oregon Department of Education.

(c) "Direct services" are services provided directly to children.

(d) "Local services" are those delivered within the boundaries of a school district, education service district, or community college district. Current examples include early intervention/early childhood, education of children in hospital programs, and educating children in long-term care or treatment programs.

(e) "Non-direct services" are all other services provided by school districts, education service districts, and community college districts that are not direct services.

(f) "Non-geographic services" are those delivered across more than one region but not across the entire state. Current examples include TESA and Early Intervention/Early Childhood Special Education.

(g) "Regional services" are those delivered within the four zones Education Service Districts they have established as the communications network. Current examples include educating children with disabilities in regional programs.

(h) "Request for Proposals" (RFP) is a solicitation document issued by the Department calling for proposals on specific activities.

(i) "Request for Qualifications" (RFQ) is a solicitation document issued by the Department to develop a list of pre-qualified service providers. Entities that successfully demonstrate they meet the qualifications will enter into Agreements to Agree.

(j) "Statewide services" are those delivered around the entire state. Current examples include administering Student Leadership Centers and the Oregon Public Education Network (OPEN).

(2) By March 31 of each odd-numbered year, the Department will issue Requests for Qualifications for educational services mandated by federal statute or by state legislative direction. These RFQs will be issued to education service districts, school districts, and community college districts in specific areas of the state depending on whether the services to be provided are considered Local, Regional, Non-geographic, or Statewide.

(3) The Department will enter into Agreements to Agree with all entities that have submitted responses to Requests for Qualification that meet the criteria established for specific services.

(4) Not later than 30 days of the end of the legislative session, the Department will issue Requests for Proposals for services likely to be funded by the Oregon Legislative Assembly or the federal government in the upcoming biennium. These RFPs will be issued to entities that have entered into an Agreement to Agree with the Department.

(5) The specific criteria for each RFP will be developed by Department staff having expertise in the content area. Selection criteria will be included in the RFP.

(6) Responses to Requests for Proposals will be evaluated by a team of Department staff having expertise in the content area and expertise in the technical aspects of procurement. The team will score each proposal and retain all documentation of the process for future review.

(7) Following evaluation of proposals, the Department will award an intergovernmental agreement to the successful proposer.

(8) If the Department and the selected ESD/SD are unable to reach an agreement, the Department reserves the right to open the process for broader competition including non-governmental entities. All proposing entities will be required to comply with state and federal requirements.

(9) Any organization submitting a proposal has the right to protest the Department's decision in the manner and on the timeline indicated in each RFP. To resolve protests, the Department will follow the procedures outlined in OAR 137-030-0104(4) and (6).

(10) If unanticipated circumstances arise that are detrimental to the fulfillment of a contract's provisions, the Department reserves the right to choose a provider and negotiate an intergov-

ernmental agreement outside of the process outlined above. Such situations may include, but are not limited to, unexpected termination of an agreement by the current provider or termination of an agreement by the Department where children's health or safety is at risk. Determination of whether such a situation exists will be determined by a Department Deputy Superintendent.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: ODE 33-2004, f. & cert. ef. 10-15-04

DIVISION 2

ACCOUNTABILITY REPORTING ADVISORY COMMITTEE

581-002-0090

Accountability Reporting Advisory Committee

(1) The Superintendent of Public Instruction shall appoint a committee, called the Accountability Reporting Advisory Committee (ARAC), consisting of at least eight members of the educational community. No more than one voting member of the ARAC may be employed by the Oregon Department of Education. The Superintendent shall appoint a chairperson and vice chairperson.

(2) The ARAC will have the following responsibilities:

(a) Recommend to the Oregon Department of Education policies, procedures and methodologies regarding:

(A) School and district report cards;

(B) Cohort graduation rate;

(C) Annual Measurable Objectives;

(D) Business rules for accountability reporting;

(E) Measurement of student growth; and

(F) Other measures for holding schools and districts accountable for student success.

(b) Make recommendations to the Oregon Department of Education on appeals from districts regarding accountability data where:

(A) The school or district submitted incorrect data or failed to submit data due to unique events that could not be predicted and/or controlled by the school or district; and

(B) The data issue could not otherwise be remedied by correcting data used in a school or district rating during the validation window available for each data collection; and

(C) The data have not been publicly released in final form.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: ODE 2-2013, f. & cert. ef. 1-15-13

581-002-0200

Class Size Collection

(1) As used in this rule:

(a) "Class" means a setting in which organized instruction of academic course content is provided to one or more students (including cross-age groupings) for a given period of time. A course may be offered to more than one class. Class instruction, provided by one or more teachers or other staff members, may be delivered in person or via a different medium.

(b) "Regular assignment of a teacher" means a teacher who consistently teaches a group of students in elementary self-contained classroom or group(s) of students in secondary classroom in academic subject area(s) over a given period of time.

(2) Beginning with the 2014-2015 school year, the Department of Education shall require public education programs to submit information as required by ORS 329.901 and this rule for the following categories of classes as identified based on the grade levels of the school:

(a) Elementary schools (any combination of grades Kindergarten through 8): Homeroom (Self-Contained)

(b) Secondary schools (any combination of grades 6 through 12) by academic subject area:

(A) English Language Arts (Reading or Language Arts);

(B) Mathematics;

(C) Science;

(D) Social Studies (Civics, History, Government, Economics, Geography);

(E) World Language and Literature; and

(F) Fine and Performing Arts.

(3) The Department shall utilize existing institution, staff and student data collections to collect the information required by ORS 329.901 and this rule.

(4) The Department shall provide a technical manual to public education programs that will be used to determine class size.

Stat. Auth.: ORS 329.901

Stat. Implemented: ORS 329.901

Hist.: ODE 37-2014, f. & cert. ef. 6-27-14

DIVISION 10

REORGANIZATION

581-010-0200

Minimum Standards and Definitions Pertaining to Objectives of Reorganization

(1) Definitions. The following definitions apply to the application of ORS 330.535 and 330.543 and this rule unless the context indicates otherwise.

(a) “Adversely Affect” means to cause any effect which diminishes educational opportunity for students;

(b) “Affected District” means a school district existing prior to reorganization which by the proposed reorganization will be significantly impacted, directly, or indirectly, in any one of the following areas:

(A) Utilization of facilities;

(B) Programs;

(C) Operational costs;

(D) Revenues;

(E) Assessed valuation per student;

(F) Levying authority;

(G) Tax rates.

(c) “Assets” means all property, both real and personal, owned by or accruing to a school district;

(d) “Average Operational Revenues Per Student” means revenues available for Net Operating Expenditures as defined in ORS 327.006 and computed according to OAR 581-023-0041, divided by the district’s Average Daily Membership as defined in ORS 327.006;

(e) “Committee” means the education service district board for the county in which the proposed school district is located. In any county where there is no education service district, “committee” means the governing body of the county. Where a proposed reorganization involves territory in two or more counties, a request for preparation of a reorganization plan shall initially be made to the committee for the county having the greatest number of affected students;

(f) “Contemplated Reorganization” means a reorganization plan:

(A) Which includes all or a portion of the area affected by the proposed reorganization; and

(B) Which the Committee has decided to develop, has under-development, or has adopted but which has not yet been approved by the voters.

(g) “Curricular program” means the following instructional programs:

(A) Grades Kindergarten–6 means art, health education, language arts, mathematics, music, physical education, science and social studies;

(B) Grades 7–8 means Fine and/or applied arts, health education, language arts, mathematics, physical education, science and social studies;

(C) Grades 9–12 means career development, global studies, government, health education, language arts, mathematics, personal finance and economics, physical education, science, U.S. history, and applied arts, fine arts or foreign language.

(h) “More Effectively Coordinated Programs” means a determination by the Committee and upon de novo review by the State Board of Education, that, considering the standards set forth in section (2) of this rule, the overall coordination of curricular and extracurricular programs within both the affected district(s) and the proposed district will be more effective as a result of reorganization;

(i) “More Efficient and Economical Administration” means a determination by the Committee and upon de novo review by the State Board of Education, that, considering the standards set forth in section (2) of this rule, the overall cost of providing public education to all students affected by the plan of reorganization will not increase as a result of reorganization;

(j) “School Facilities” means real and personal property, which shall include school buildings, administrative offices, warehouses, garages, buses, computers, audiovisual equipment and other property which may be owned or leased by the school district;

(k) “Significant Impact” means any impact that would diminish a district’s ability to provide students such physical facilities, instructional materials, curricular programs and school personnel as may be required by federal law, state law, and administrative rules adopted by the State Board of Education;

(l) “Substantially Equal” means a standard indicating similarity to the extent that no deviation shall be allowed which would deprive any affected student of such physical facilities, instructional materials, curricular programs and school personnel as are required in order for a district to be deemed standard;

(m) “Superior” means a standard indicating qualitative or quantitative improvement over the existing programs.

(2) “Standards”: The plan shall be deemed to provide for a satisfactory school district system pursuant to ORS 330.565 if it appears probable the proposed reorganization meets the requirements of 330.090(4) and will achieve all of the objectives of reorganization described in 330.543(1) and this rule. Such requirements of 330.090(4) and the objectives of reorganization are subject to the following minimum standards:

(a) The proposed district shall offer a curricular program for kindergarten through grade twelve which shall:

(A) Meet all state standards for public schools; and

(B) Be substantially equal to or superior to the program which would be available in the affected district or districts in the absence of reorganization.

(b) Reorganization shall not adversely affect individual curricular programs in the affected district(s);

(c) The proposed district shall in a more cost effective manner, administer support services including counseling, health, food, maintenance and transportation than what would be provided in the absence of reorganization;

(d) Reorganization shall not adversely affect administration of support services within the affected district(s);

(e) The proposed district shall in a more cost effective manner administer the existing school facilities within the proposed district than what would be provided in the absence of reorganization;

(f) Reorganization shall not adversely affect the efficient and economical administration of existing school facilities in the affected districts;

(g) Utilization of existing school facilities and projected facilities in the proposed district shall:

(A) Conform with applicable federal, state and local laws and regulations relating to fire, health and safety;

(B) Provide appropriate facilities to assure students with disabilities substantially equal or superior educational opportunities to those which would be provided in the absence of reorganization;

(C) Provide physical facilities to assure equal educational opportunity for both sexes.

(h) The proposed district shall provide coordination of curricular, extracurricular, athletic, and community programs and services superior to the coordination which would have existed in the absence of reorganization;

(i) Reorganization shall not adversely affect the coordination of curricular, extracurricular, athletic, and community programs within the affected district(s);

(j) Reorganization shall provide more efficient and economical administration with respect to social and economic community centers and with respect to natural geographic features within the proposed district(s) and affected district(s) as compared to what would be provided in the absence of reorganization;

(k) Reorganization shall provide integrated, nonsegregated education in the proposed and affected districts, which shall include programs to encourage and support affected children of all races and national origins to learn together and acquire the skills and attributes of citizenship;

(l) Any existing affirmative or remedial programs or services offered to students within the affected districts shall be substantially equal to those available to students within the affected districts as a result of reorganization;

(m) Reorganization shall not result in violation of ORS 659.150 or OAR 581-021-0045;

(n) Reorganization shall not result in an increase in tax rates on taxable property in the proposed or affected district(s) where such increase will have a significant impact on any affected district;

(o) Reorganization shall not result in an increase in assessed value per student in the proposed or affected district(s) where such increase will have a significant impact on any affected district;

(p) Reorganization shall not result in a reduction in assessed value per student where such reduction would have a significant impact on any affected district(s);

(q) Reorganization shall not result in a reduction in operational revenues per student where such reduction would have a significant impact on any affected district(s);

(r) In the case of a reorganization which results in a new district having an indebtedness or liability (whether or not immediately payable) which is more than 20 percent of the projected first year's operating budget of the new district, the new district shall not receive its share of assets and shall not operate until adequate provision has been made, as determined by the Committee and State Board of Education, for payment of such indebtedness or liability as it becomes due. Such provision may be in the form of a tax base or authorization for the issuance of bonds. The "indebtedness or liability" referred to in this subsection includes, but is not limited to prior debt service costs or funding of a retirement system established pursuant to ORS Chapter 239(TRFA);

(s) When the reorganization combines two or more districts into one district, the duties of administrators shall be reviewed, and, if necessary, redistributed, to obtain maximum operating efficiency within affected districts;

(t) When reorganization involves detachment from an existing district, administrative efficiency of the existing district shall not be adversely affected by the reorganization;

(u) If by reason of the application of ORS 330.660(1)(b) or otherwise, reorganization results in a district having an excess number of employees, then:

(A) The reduction in probationary and permanent teacher staff shall be governed by ORS 342.934 of the Fair Dismissal Law, except to the extent such may be in conflict with any valid and applicable provision of an individual or collective bargaining contract; and

(B) Reduction of other employees shall be governed by any applicable and valid individual or collective bargaining contract.

(v) If the provisions of ORS 330.660(1)(b) are inapplicable those employees who, immediately prior to the date on which the new district comes into existence, spent the majority of their on-duty time in the buildings assigned to the new district in the reorganization, shall become employees of the new district, effective ensuing July 1, unless their employment with the former district terminates prior to that date. Unless otherwise agreed by the new district and such employees or their respective collective bargaining representatives, their employment status as regards permanency (for instance, whether a permanent teacher, probationary teacher,

temporary employee) shall be subject to the same rights, or lack thereof, as applied immediately prior to the date on which the new district came into existence. In such cases, unless agreed otherwise between the new district and said employees or their respective collective bargaining representatives, for a period of one year, the salary rates and employee benefits while employed shall remain unchanged. The provision does not refer to membership or receipt of benefits from a retirement system established under Chapter 239(TRFA);

(w) As determined by legal descriptions and maps, reorganization shall not result in a noncontiguous district;

(x) Reorganization shall not result in a school district having fewer than 20 children, as determined by the most recent enrollment report to the Oregon Department of Education and projected enrollment for the two forthcoming years;

(y) Reorganization shall not affect any other contemplated reorganization.

Stat. Auth.: ORS 330

Stats. Implemented:

Hist.: 1EB 9-1985, f. & ef. 2-5-85; 1EB 27-1986, f. & ef. 7-18-86; ODE 26-2008, f. 10-23-08, cert. ef. 10-24-08

DIVISION 11

TEXTBOOK ADOPTION

581-011-0050

Generally

(1) For purposes of rules adopted by the State Board of Education and for policies established by the Oregon Department of Education, "instructional material" means any organized system, which constitutes the major instructional vehicle for a given course of study, or any part thereof.

(2) Only basal instructional programs may be adopted by the State Board of Education. A major instructional vehicle may include such instructional materials as a hardbound or a softbound book or books, or sets or kits of print and non-print materials, including electronic and internet or web-based materials or media.

(3) Accessible Instructional Materials are required under OAR 581-015-2060, 581-022-1640, 581-022-1622, 581-02-1650, and 581-011-0052.

Stat. Auth.: ORS 337.035

Stats. Implemented: ORS 337.035

Hist.: 1EB 215, f. 1-29-76, ef. 2-25-76; ODE 10-2001, f. & cert. ef. 5-15-01; ODE 28-2001, f. & cert. ef. 12-20-01; ODE 13-2007, f. 4-25-07, cert. ef. 4-27-07; ODE 3-2009, f. & cert. ef. 6-29-09

581-011-0052

Accessible Instructional Materials Required

As part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials, the Department of Education shall enter into a written contract with the publisher of the print instructional materials to require the publisher to prepare and, on or before delivery of the print instructional materials, provide to the National Instructional Materials Access Center (NIMAC) electronic files containing the contents of the print instructional materials using the National Instructional Materials Accessibility Standard (NIMAS).

Stat. Auth.: ORS 337.035

Stats. Implemented: ORS 337.035

Hist.: ODE 13-2007, f. 4-25-07, cert. ef. 4-27-07; ODE 3-2009, f. & cert. ef. 6-29-09

581-011-0055

Guidelines for the Selection of Instructional Materials Criteria Committees

(1) Instructional materials criteria committees shall be appointed by and work under the supervision of the Oregon Department of Education.

(2) A criteria committee in each subject area for which state adoptions are planned shall be appointed the year preceding a state adoption. The committee shall recommend categories and draft cri-

teria to be used in evaluating the instructional materials submitted for basal consideration.

(3) Committees shall conduct committee work in time to present the final draft of the criteria to the State Board of Education by the Board's January meeting in the year of the adoption.

(4) Each committee shall be chaired by the Department of Education specialist in the particular subject area for which criteria are being developed. In the event that there is not a staff specialist in a particular subject field, the Department shall obtain a specialist to serve as chair.

(5) Each committee shall include no less than five members selected from among Oregon classroom teachers, curriculum specialists, and others having experience and expertise in the subject area under consideration.

(6) Travel, lodging, and meal expenses for committee meetings are to be reimbursed in accordance with state policy from review fees collected by the Department of Education from publishers.

Stat. Auth.: ORS 337.035

Stats. Implemented: ORS 337.035

Hist.: 1EB 215, f. 1-29-76, ef. 2-25-76; 1EB 245, f. & ef. 9-23-76; EB 1-1992, f. & cert. ef. 2-21-92; EB 5-1996, f. & cert. ef. 3-29-96; ODE 3-2009, f. & cert. ef. 6-29-09

581-011-0060

Guidelines for Criteria Development by Committees

Criteria committees shall develop criteria which provide assistance for judgmental determination by evaluation committees and the State Board of Education. These criteria shall include, but not be limited to, the major concepts of the Core Academic Content Standards and Essential Skills established by the State Board of Education for Oregon schools; the criteria shall require instructional materials to provide fair treatment of all people and reflect our multicultural society.

Stat. Auth.: ORS 337

Stats. Implemented: ORS 337.035

Hist.: 1EB 215, f. 1-29-76, ef. 2-25-76; 1EB 245, f. & ef. 9-23-76; EB 1-1992, f. & cert. ef. 2-21-92; ODE 3-2009, f. & cert. ef. 6-29-09

581-011-0065

Approval of Criteria for Evaluation of Instructional Materials

(1) Criteria Committees, under the direction of the Department of Education staff, shall develop criteria to be submitted to the State Board of Education in the fall of the year preceding the adoption year.

(2) The State Board of Education shall review the criteria which will be used in the evaluation of instructional materials submitted for adoption. The Board will adopt the criteria no later than its January meeting in the adoption year.

Stat. Auth.: ORS 337.030, 337.035, 337.060, 337.065, 337.075 & 337.260

Stats. Implemented: ORS 337.035

Hist.: 1EB 215, f. 1-29-76, ef. 2-25-76; 1EB 245, f. & ef. 9-23-76; EB 21-1992, f. & cert. ef. 6-23-92; EB 5-1996, f. & cert. ef. 3-29-96; ODE 10-2001, f. & cert. ef. 5-15-01; ODE 3-2009, f. & cert. ef. 6-29-09

581-011-0066

Appointment of Committees to Evaluate Instructional Materials for State Adoption

(1) ORS 337.050 requires the State Board of Education to adopt a list of instructional materials for each grade and subject field in the standard curriculum for which, in its judgment, such materials are required.

(2) The Board, therefore, directs that educators who are knowledgeable of the grade level and subject area of materials to be reviewed be appointed to committees to evaluate instructional materials submitted by publishers, and delegates to the Superintendent of Public Instruction the responsibility for appointment of such committees. No fewer than three-fourths of the membership of each committee shall be comprised of classroom teachers currently employed in Oregon public schools.

(3) The committee membership should reflect the size and geographic diversity of school districts throughout Oregon as well as the racial and ethnic diversity of Oregon students and teachers. The committee members shall be chosen from a pool of names

solicited from local districts, educational service districts, and other interested organizations including appropriate subject matter professional organizations.

(4) The committees shall determine the degree to which the submitted materials meet the Board's criteria as adopted under OAR 581-011-0065. Based on the scores received, the Department of Education will present to the Board a recommended list of basal instructional materials for adoption.

(5) The rosters of committee appointees will be available from the Department of Education.

Stat. Auth.: ORS 337.050

Stats. Implemented: ORS 337.035

Hist.: EB 5-1993, f. & cert. ef. 2-11-93; EB 5-1996, f. & cert. ef. 3-29-96; ODE 3-2009, f. & cert. ef. 6-29-09

581-011-0067

Compensation for Evaluators of Submitted Instructional Materials

(1) OAR 581-011-0066 provides for appointment of committees whose task is to evaluate submitted basal instructional materials.

(2) Committee members are to receive meal and travel (and lodging where appropriate) reimbursement in accordance with state policies for expenses incurred in attending evaluation sessions at the state level.

(3) In addition, an honorarium is to be given each participant who completes all the duties assigned including attending the training sessions, attending the presentations, working on the evaluations, completing the criteria checklists and comment sheets, and participating in any assigned committee meetings for drafting annotations for the adopted list or selecting the list of materials to be recommended to the Board. The honorarium is to be determined based on current Department of Education fees paid for similar tasks.

Stat. Auth.: ORS 337.050

Stats. Implemented: ORS 337.035

Hist.: EB 16-1993, f. & cert. ef. 4-30-93; EB 5-1996, f. & cert. ef. 3-29-96; ODE 3-2009, f. & cert. ef. 6-29-09

581-011-0070

Adoption Period for Instructional Materials

(1) The State Board of Education shall adopt instructional materials by rule prior to October 31 each year.

(2) The adoption period consists of the seven-year period following adoption of an instructional materials list by the State Board of Education in accordance with the provisions of ORS 337.050.

Stat. Auth.: ORS 337.050

Stats. Implemented: ORS 337.035, 337.050 & 337.055

Hist.: 1EB 215, f. 1-29-76, ef. 2-25-76; 1EB 245, f. & ef. 9-23-76; EB 5-1996, f. & cert. ef. 3-29-96; ODE 8-1998, f. & cert. ef. 6-23-98; ODE 3-2009, f. & cert. ef. 6-29-09

581-011-0071

Instructional Materials Adopted by the State Board of Education

(1) The State Board of Education shall adopt a list of basal instructional materials annually in the subject matter cycle adopted by the Board according to the criteria adopted by the Board under OAR 581-011-0117.

(2) The Subject Matter Cycle is the State instructional materials list adoption schedule adopted by the Board as required by ORS 337.035. Pursuant to 337.120, district school boards shall adopt instructional materials for each grade and subject field for which instruction is provided by the district from the approved list except as otherwise provided by 337.141 (Independent Adoption using the State Criteria). As stated in 337.120 and OAR 581-022-1650, a district school board may also postpone adoption for up to two years.

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

Stat. Auth.: ORS 337.141

Stats. Implemented: ORS 337.050

Hist.: 1EB 1-1983, f. 2-14-83, ef. 2-15-83; 1EB 6-1983, f. 5-10-83, ef. 5-11-83; 1EB 12-1983, f. & ef. 11-3-83; 1EB 1-1984, f. & ef. 1-20-84; 1EB 9-1984, f. & ef. 4-13-84; EB 1-1989, f. & cert. ef. 1-23-89; EB 14-1989, f. & cert. ef. 4-19-89; ED 1-1990, f. & cert. ef. 1-19-90; EB 14-1994, f. & cert. ef. 10-3-94; EB 17-

1994, f. & cert. ef. 12-15-94; ODE 23-2007, f. & cert. ef. 10-26-07; ODE 3-2009, f. & cert. ef. 6-29-09

581-011-0075

Proposal (BID) Forms

(1) Instructional materials proposals submitted by publishers must be on forms supplied by the Department of Education. A separate continuation sheet must be used for each subject category on which a proposal is submitted. Proposal forms will be provided by the Department of Education. Samples submitted and specifications set forth in the proposals shall conform exactly with the instructional materials, which the publisher will be able to deliver.

(2) The continuation sheets shall specify the subject, category, and publisher name and shall list the author and exact title of each item of instructional material (including series title, if any), grade level, date of copyrights and prices. Each continuation sheet shall also contain the following explanation of terms which are considered a part of the proposal:

(a) The wholesale (volume discount) price at depository is the price at which the instructional materials will be furnished to the State Board of Education and to school districts at the wholesale depository, or wholesale depositories, maintained in the state;

(b) The retail price (list price) is the price at which the instructional materials will be furnished to the general public;

(c) The publisher's wholesale price is the price at which the instructional materials will be furnished to the Department of Education, viewing sites, and to school districts f.o.b.;

(d) On both the proposal and contract the wholesale at publisher price and the wholesale at depository price shall be the same thus requiring the publisher to pay the freight to transport the contracted materials to the Oregon depository.

(3) The bid forms shall contain such other information and requirements as the Department of Education determines are necessary.

Stat. Auth.: ORS 337.030, 337.035, 337.060, 337.065, 337.075 & 337.260

Stats. Implemented: ORS 337.060

Hist.: 1EB 215, f. 1-19-76, ef. 2-25-76; 1EB 245, f. & ef. 9-23-76; EB 21-1992, f. & cert. ef. 6-23-92; ODE 3-2009, f. & cert. ef. 6-29-09

581-011-0080

Contract Forms and Authority

(1) The State Board of Education delegates to the Superintendent of Public Instruction the authority to enter into contracts with publishers.

(2) The contract entered into by the superintendent with publishers whose instructional materials have been adopted by the Board shall be on a form furnished by the Department of Education. The contract shall require the publisher to maintain at least one depository to be designated by the superintendent, where such instructional materials may be purchased, and to furnish such instructional materials according to law and the conditions named in the proposal. The contract shall contain such other information and requirements as the Department of Education determines are necessary.

(3)(a) The Board authorizes the Department to collect a bond or an irrevocable letter of credit up to \$10,000 from a publisher. The Department may collect a lower bond amount when the following conditions are met:

(A) The materials under contract are Open Educational Resources; and

(B) Are submitted for review in their free (\$0 cost to obtain content) format.

(b) As used in this subsection, "Open Educational Resources (OER)" are defined as teaching and learning resources that reside in the public domain or have been released under an open license that permits their free use and re-purposing by others.

Stat. Auth.: ORS 337.030, 337.035, 337.060, 337.065, 337.075 & 337.260

Stats. Implemented: ORS 337.090

Hist.: 1EB 215, f. 1-29-76, ef. 2-25-76; 1EB 245, f. & ef. 9-23-76; 1EB 2-1978, f. & ef. 1-20-78; 1EB 1-1984, f. & ef. 1-20-84; EB 21-1992, f. & cert. ef. 6-23-92; ODE 3-2009, f. & cert. ef. 6-29-09; ODE 40-2016, f. & cert. ef. 7-18-16

581-011-0086

Substitutions of New Editions or Versions of State-Adopted Instructional Materials

(1) The State Board of Education may approve the request of a publisher to substitute a more recent edition of any officially adopted instructional material.

(2) In order to meet the qualifications for approval, a new edition of a state-adopted material must:

(a) Be submitted by the publisher to the State Superintendent of Public Instruction, Department of Education, with a letter of request indicating the category of the adopted edition, title, author, copyright and publication dates of substitution edition, and copyright and publication dates of adopted edition. The publisher must state that the materials will be supplied to Oregon schools at the contract price of the originally adopted edition. A list of the nature of the changes between the two editions must be enclosed with the letter.

(b) Be supplied in addition to, rather than in place of, the adopted edition. School districts cannot be required to use a substituted edition or version of a state-adopted material; both editions must be available for distribution in the state. However, in the event the substitution contains only minor copyright revisions or revisions that ensure they are current and accurate, the Board may determine that it is not necessary for the originally adopted edition to be available for distribution.

(c) Be compatible with the previous edition or version in pagination, illustrations, content, etc., to the degree that the materials may be easily used interchangeably in the classroom.

Stat. Auth.: ORS 337.050(2) & 337.141

Stats. Implemented: ORS 337.050

Hist.: EB 30-1991, f. & cert. ef. 12-18-91; EB 5-1996, f. & cert. ef. 3-29-96; ODE 3-2009, f. & cert. ef. 6-29-09

581-011-0087

Digital, Electronic, or Web-based Materials and Media

(1) As indicated in OAR 581-011-0050(1) and (2), Instructional materials are defined as any organized system which constitutes the major instructional vehicle for a given course of study, or any part thereof. Instructional Material may include digital content or software in a format such as electronic and internet or web-based materials or media.

(2) Contract, review, and evaluation process involving digital, electronic, or web-based materials and media shall be the same as print materials.

(3) As stated in OAR 581-011-0086, the State Board of Education must approve the request of a publisher to substitute a more recent edition or version of any officially adopted material. However, software updates that improve functionality, performance, or accuracy are allowed if approved by the Department of Education. New and revised editions or versions must be sold at the same or lower price as those previously approved.

(4) According to ORS 337.060 a publisher or other supplier who submits a proposal under 337.060 is required to pay a fee equal to the retail price expended by a school district during the length of the contract period, or \$50, whichever is greater, for each title or item of instructional material proposed by the publishers or supplier for review and adoption by the Board. Bid proposals must include available retail price structures such as per-student, per-computer, subscription and other unit price structures and may include models where the cost is divided over multiple years and paid annually (as opposed to a single payment). Bid proposal fees are payable prior to consideration of the proposal.

(5) Materials that comply with the interoperability standards can be considered for adoption according to ORS 337.075.

(6) Materials shall be accessible consistent with OAR 581-015-2060, 581-022-1640, 581-022-1622, 581-022-1650, 581-011-0052 and compliant with all state or federal laws regarding accessibility.

(7) Materials cannot include free or gratis equipment such as computer hardware, technology devices or equipment, which are intended to deliver or display the material but which are not instructional materials. This includes but is not limited to computers,

laptops, handheld devices, microscopes, CD/DVD players, overhead or LCD projectors, electronic whiteboards, phone/music/transmitting and listening devices, and cameras.

(8) In accordance with ORS 337.090, if any publisher fails to carry out the provisions of the contract or with the intent to evade the provisions of the contract, sells any of the materials in this state at prices higher than specified in the contract of the publisher, the Board may, on behalf of the state, rescind the contract and notify the publisher thereof, or bring the appropriate action or suit to enforce the provisions of the publisher's bond or letter of credit, payable to the State of Oregon for the benefit of the Common School Fund.

Stat. Auth.: ORS 337.035

Stats. Implemented: ORS 337.035

Hist.: ODE 3-2009, f. & cert. ef. 6-29-09; ODE 1-2010, f. & cert. ef. 2-8-10

581-011-0090

Assessment of Submission Fees

The following provisions shall govern the payment and collection of submission fees required of publishers who submit instructional materials for adoption. These rules are established pursuant to ORS 337.065.

(1) The fee, the retail price or \$50 whichever is greater, will be levied for each title or item of instructional material which is submitted by the publisher for review and possible adoption by the State Board of Education. An "item of instructional material" as used in this subsection is a component, set or kit of instructional materials packaged and sold as a unit. The publisher will indicate on the submission forms and the official proposal forms furnished by the Department of Education only the item(s) proposed for adoption.

(2) No fee will be required for teacher's editions of instructional materials which contain the same textual material as students' content for teacher use even though they may be evaluated in conjunction with the basic instructional program to support its strength. However, in those instances in which a teacher's guide in itself constitutes the basic program, the fee will be charged.

(3) An item of instructional material which is submitted in multiple forms (e.g., hardback, softback, electronic, loose-leaf or broken into several parts which are produced as separate units -- unless these parts are submitted for adoption at separate grade levels) which contain the same content and are evaluated essentially as one item will be assessed only one fee for the most costly format. If the materials are submitted as a set or kit for a continuous sequence of grades, a separate fee will be charged for each grade encompassed. If an item of instructional material is submitted in more than one category, a separate submission form and official proposal form must be completed for each category. A separate fee will be assessed for each category.

(4) Official forms for submission of instructional materials by publishing companies for consideration for adoption shall carry instructions and provide columns for entering the retail price and the fee to be paid for each item. Such fees will be checked for accuracy by the Department of Education on receipt of the forms, and the company will be billed for the amount due. The publisher's materials are approved for evaluation for adoption upon receipt of the correct fee. No fees will be refunded once the evaluation has been completed except in cases of fees miscalculation.

Stat. Auth.: ORS 337.030, 337.035, 337.060, 337.065, 337.075 & 337.260

Stats. Implemented: ORS 337.065

Hist.: 1EB 215, f. 1-29-76, ef. 2-25-76; 1EB 245, f. & ef. 9-23-76; EB 21-1992, f. & cert. ef. 6-23-92; EB 5-1996, f. & cert. ef. 3-29-96; ODE 3-2009, f. & cert. ef. 6-29-09

581-011-0095

Submission of Instructional Materials

The following rules are in effect between publishers and their representatives and members of the State Board of Education:

(1) No materials may be considered by the Board unless delivered at least 60 days prior to the adoption date.

(2) All publishers are required to prepare summaries which include documentation and analysis on their submitted instructional materials showing how they conform to the criteria adopted by the

State Board of Education for the review and selection of instructional materials. Forms for preparing such summaries are available from the Department of Education. Completed summaries must be submitted to appropriate evaluation committee members and Department of Education staff as directed by the Department of Education.

Stat. Auth.: ORS 337.030, 337.035, 337.060, 337.065, 337.075 & 337.260

Stats. Implemented: ORS 337.065

Hist.: 1EB 215, f. 1-29-76, ef. 2-25-76; 1EB 245, f. & ef. 9-23-76; EB 21-1992, f. & cert. ef. 6-23-92; ODE 3-2009, f. & cert. ef. 6-29-09

581-011-0114

Instructional Materials Caravan

(1) The Oregon Department of Education, in cooperation with Education Service Districts and School Districts throughout the state, may conduct an Instructional Materials Caravan.

(a) Publishers or suppliers whose materials were adopted by the State Board of Education in the Subject Matter Cycle may participate in the Caravan.

(b) The Department may require publishers to pay a fee to participate in the caravan in addition to the bid submission fee charged for review according to ORS 337.065.

(2) Publishers shall follow the guidelines of the caravan as established by the Department of Education.

(a) Only Board adopted materials are to be presented, shown, or included in the Caravan.

(b) Pupil editions, teacher editions (samplers included) and ancillaries, in any form can be reviewed by attendees but must be returned at the end of the presentation. No gifts, food items, gadgets, "doohickeys" or sample materials which include media are to be given to participants attending the presentations.

(c) Pamphlets, brochures, catalogues, or two page reports describing the adopted program may be distributed including correlations to the Oregon Standards. Publisher representatives may attach business cards to these items but no personal contact information is to be gathered from caravan participants.

(d) Publishers may not participate in any other events involving caravan participants during the caravan period.

(e) Violations of caravan guidelines may result in a publisher being removed from the caravan.

Stat. Auth.: ORS 337.035

Stats. Implemented: ORS 337.035

Hist.: ODE 3-2009, f. & cert. ef. 6-29-09

581-011-0117

Criteria for the Selection and Adoption of Instructional Materials

The State Board of Education shall adopt basal instructional materials criteria annually in the subject matter cycle adopted by the Board and described in OAR 581-011-0071.

Stat. Auth.: ORS 337.035

Stats. Implemented: ORS 337.035

Hist.: 1EB 3-1982, f. & ef. 1-26-82; EB 31-1987, f. & ef. 12-10-87; EB 1-1994, f. & cert. ef. 2-4-94; EB 3-1995, f. & cert. ef. 1-24-95; EB 1-1996, f. & cert. ef. 1-29-96; ODE 3-2009, f. & cert. ef. 6-29-09

DIVISION 15

SPECIAL EDUCATION

581-015-2000

Definitions

The definitions below apply to OARs 581-015-2000–581-015-2999, unless the context indicates otherwise.

(1) "Adult student" is a student for whom special education procedural safeguard rights have transferred as described in OAR 581-015-2325.

(2) "Assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such device.

(3) “Assistive technology service” means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes:

(a) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child’s customary environment;

(b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;

(c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(e) Training or technical assistance for a child with a disability or, if appropriate, that child’s family; and

(f) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child.

(4) “Children with disabilities” or “students with disabilities” means children or students who require special education because of: autism; communication disorders; deafblindness; emotional disturbances; hearing impairments, including deafness; intellectual disability; orthopedic impairments; other health impairments; specific learning disabilities; traumatic brain injuries; or visual impairments, including blindness.

(a) “Autism” means a developmental disability significantly affecting verbal and nonverbal communication and social interaction that adversely affects a child’s educational performance. Other characteristics that may be associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. Essential features are typically but not necessarily manifested before age three. Autism may include autism spectrum disorders such as but not limited to autistic disorder, pervasive developmental disorder, not otherwise specified, and Asperger’s syndrome. The term does not apply if a child’s educational performance is adversely affected primarily because the child has an emotional disturbance. However, a child who qualifies for special education under the category of autism may also have an emotional disturbance as a secondary disability if the child meets the criteria under emotional disturbance.

(b) “Communication Disorder” means the impairment of speech articulation, voice, fluency, or the impairment or deviant development of language comprehension and/or expression, or the impairment of the use of a spoken or other symbol system that adversely affects educational performance. The language impairment may be manifested by one or more of the following components of language: morphology, syntax, semantics, phonology, and pragmatics.

(c) “Deafblindness” means having both hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that the child cannot be accommodated in special education programs designed solely for students having hearing or visual impairments.

(d) “Emotional Disturbance” means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child’s educational performance:

(A) An inability to learn that cannot be explained by intellectual, sensory, or health factors;

(B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(C) Inappropriate types of behavior or feelings under normal circumstances;

(D) A general pervasive mood of unhappiness or depression; or

(E) A tendency to develop physical symptoms or fears associated with personal or school problems;

(F) The term includes schizophrenia but does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance.

(e) “Hearing Impairment” means a hearing condition, whether permanent or fluctuating, that adversely affects a child’s educational performance. The term includes those children who are hard of hearing or deaf.

(f) “Intellectual Disability” means significantly sub average general intellectual functioning, and includes a student whose intelligence test score is two or more standard deviations below the norm on a standardized individual intelligence test, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, and that adversely affects a child’s educational performance.

(g) “Orthopedic Impairment” means a motor disability that adversely affects the child’s educational performance. The term includes impairments caused by an anomaly, disease or other conditions (e.g., cerebral palsy, spinal bifida, muscular dystrophy or traumatic injury).

(h) “Other Health Impairment” means limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment, that:

(A) Is due to chronic or acute health problems (e.g. a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, attention deficit disorder, attention deficit hyperactivity disorder, leukemia, Tourette’s syndrome or diabetes); and

(B) Adversely affects a child’s educational performance.

(i) “Specific Learning Disability” means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or do mathematical calculations. Specific learning disability includes conditions such as perceptual disabilities, brain injury, dyslexia, minimal brain dysfunction, and developmental aphasia. The term does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, intellectual disability, emotional disturbance, or environmental, cultural, or economic disadvantage.

(j) “Traumatic Brain Injury” means an acquired injury to the brain caused by an external physical force resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child’s educational performance. The term includes open or closed head injuries resulting in impairments in one or more areas, including cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not include brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

(k) “Visual Impairment” means a visual impairment that, even with correction, adversely affects a child’s educational performance. The term includes those children who are partially sighted or blind.

(5) “Consent” means that:

(a) The parent or adult student has been fully informed of all information relevant to the activity for which consent is sought, in the parent’s native language or other mode of communication;

(b) The parent or adult student understands and agrees in writing to the carrying out of the activity for which consent is sought; and the consent describes that activity and lists any records that will be released and to whom; and

(c) The parent or adult student understands that the granting of consent is voluntary and may be revoked at any time in accordance with OAR 581-015-2090(4) or 581-015-2735.

(6) “Day” means calendar day unless otherwise indicated as:

(a) “Business day,” which means Mondays through Fridays, other than holidays; or as

(b) “School day,” which means any day, including partial days that children are in attendance at school for instructional purposes. The term “school day” has the same meaning for all children in school, including those with and without disabilities.

(7) “Department” means the Oregon Department of Education.

(8) “EI/ECSE” means early intervention/early childhood special education and refers to services or programs for preschool children with disabilities.

(9) “Elementary or secondary school or facility” means a school or facility with any combination of grades K through 12.

(10) “Evaluation” means procedures used to determine whether the child has a disability, and the nature and extent of the special education and related services that the child needs.

(11) “General education curriculum” means the same curriculum as for children without disabilities (children without disabilities). For preschool children with disabilities, the term means age-appropriate activities.

(12) “Health assessment statement” means a written statement issued by a nurse practitioner licensed by a State Board of Nursing specially certified as a nurse practitioner, or by a physician assistant licensed by a State Board of Medical Examiners. Both a nurse practitioner and a physician assistant must be practicing within his or her area of specialty.

(13) “Homeless children” (or “homeless youth”) has the same meaning as in section 725 of the McKinney-Vento Act, 42 USC § 11434a(2).

(14) “Identification” means the process of determining a child’s disability and eligibility for special education and related services.

(15) “Individualized Education Program” (IEP) means a written statement of an educational program which is developed, reviewed, revised and implemented for a school-aged child with a disability.

(16) “Individualized Family Service Plan” (IFSP) is defined in OAR 581-051-2700.

(17) “Limited English proficient” has the same meaning as in the Elementary and Secondary Education Act, 20 USC § 9101(25).

(18) “Mediation” means a voluntary process in which an impartial mediator assists and facilitates two or more parties to a controversy in reaching a mutually acceptable resolution of the controversy and includes all contacts between a mediator and any party or agent of a party, until such a time as a resolution is agreed to by the parties or the mediation process is terminated.

(19) “Medical statement” means a written statement issued by a physician licensed by a State Board of Medical Examiners.

(20) “Native language”, when used with respect to a person who is limited English proficient, means the language normally used by that person or, in the case of a child, the language normally used by the parent of the child. For an individual with deafness, blindness, deafblindness or no written language, the term means the mode of communication normally used by the person (such as sign language, Braille, or oral communication). In direct contact with a child, the term means the language normally used by the child.

(21) “Parent” means:

(a) One or more of the following persons:

(A) A biological or adoptive parent of the child;

(B) A foster parent of the child,

(C) A legal guardian, other than a state agency;

(D) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare; or

(E) A surrogate parent who has been appointed in accordance with OAR 581-015-2320, for school-age children, or 581-015-2760 for preschool children.

(b) Except as provided in subsection (c), if more than one party is qualified under subsection (a) to act as a parent and the biological or adoptive parent is attempting to act as the parent, the biological or adoptive parent is presumed to be the parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

(c) If a judicial decree or order identifies a specific person under subsection (a) to act as the parent of a child or to make edu-

cational decisions on behalf of a child, then that person will be the parent for special education purposes.

(22) “Participating agency” means a state or local agency, other than the school district responsible for a student’s education, that is financially and legally responsible for providing transition services to the student.

(23) “Personally identifiable information” means information as defined in the Family Educational Rights and Privacy Act (FERPA), found at 34 CFR 99.3, which includes, but is not limited to:

(a) The name of the child, the child’s parent or other family member;

(b) The address of the child or the child’s family;

(c) A personal identifier, such as the child’s social security number or student number, or biometric record; and

(d) Other indirect identifiers, such as the child’s date of birth, place of birth, and mother’s maiden name;

(e) Other information that alone or in combination is linked or linkable to a specific child that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the child with reasonable certainty; or

(f) Other information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

(24) “Placement” means educational placement, not social service placement by a state agency.

(25) “Preschool child” means “preschool child with a disability” as defined under OAR 581-015-2700.

(26) “Private school” means an educational institution or agency not operated by a public agency.

(27) “Public agency” means a school district, an education service district, a state agency or institution, EI/ECSE contractor or subcontractor, responsible for early intervention, early childhood special education or special education.

(28) “Related services” includes transportation and such developmental, corrective and other supportive services as are required to assist a child with a disability to benefit from special education, and includes orientation and mobility services, speech language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation including therapeutic recreation, school health services and school nurse services, counseling services, including rehabilitation counseling services, social work services in schools, parent counseling and training, school health services and medical services for diagnostic or evaluation purposes, and includes early identification and assessment of disabling conditions in children. This definition incorporates the exception for services for children with surgically implanted devices, including cochlear implants, in 34 CFR 300.34(b) and the definitions for individual related services in 34 CFR 300.34(c).

(29) “School age child or children” means a child or children who have reached 5 years of age but have not reached 21 years of age on or before September 1 of the current school year.

(30) “Scientifically Based Research” is defined in section 9101(37) of the Elementary and Secondary Education Act of 1965, as amended ESEA.

(31) “School district” means the public education agency (school district, ESD, or state agency) that is responsible by statute, rule or contract for providing education to children with disabilities.

(32) “Services plan” is defined in OAR 581-015-2450.

(33) “Sheltered Workshop” is a facility in which individuals with disabilities, including intellectual or developmental disabilities, are congregated for the purpose of receiving employment services and performing work tasks for pay at the facility. A Sheltered Workshop primarily employs these individuals with the exception of service support staff. A Sheltered Workshop is a fixed site that is owned, operated, or controlled by a provider, where an individual has few or no opportunities to interact with nondisabled individuals, except paid support staff. A Sheltered Workshop is not Small Group Employment in an Integrated Employment Setting as

defined in Executive Order 15-01, and is not otherwise an Integrated Employment Setting as defined in Executive Order 15-01.

(34) “Short term objectives” means measurable intermediate performance steps that will enable parents, students and educators to gauge, at intermediate times during the year, how well the child is progressing toward the annual goals by either:

(a) Breaking down the skills described in the goal into discrete components, or

(b) Describing the amount of progress the child is expected to make within specified segments of the year.

(35) “Special education” means specially designed instruction that is provided at no cost to parents to meet the unique needs of a child with a disability “Special education” includes instruction that:

(a) May be conducted in the classroom, the home, a hospital, an institution, a special school or another setting; and

(b) May involve physical education services, speech language services, transition services or other related services designated by rule to be services to meet the unique needs of a child with a disability.

(36) “Specially designed instruction” means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction:

(a) To address the unique needs of the child that result from the child’s disability; and

(b) To ensure access of the child to the general curriculum, so that he or she can meet the educational standards within the jurisdiction of the public agency that apply to all children.

(37) “Supplementary aids and services” means aids, services and other supports that are provided in regular education classes or other education-related settings and in extracurricular and nonacademic settings to enable children with disabilities to be educated with children without disabilities to the maximum extent appropriate.

(38) “Superintendent” means the State Superintendent of Public Instruction or the designee of the State Superintendent of Public Instruction.

(39) “Surrogate parent” means an individual appointed under OAR 581-015-2320 for school age children or 581-015-2760 for preschool children who acts in place of a biological or adoptive parent in safeguarding a child’s rights in the special education decision-making process.

(40) “Transition services” means a coordinated set of activities for a student with a disability that:

(a) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the student to facilitate the student’s movement from school to post school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

(b) Is based on the individual student’s needs, taking into account the student’s preferences and interests; and

(c) Includes:

(A) Instruction;

(B) Related services;

(C) Community experiences;

(D) The development of employment and other post school adult living objectives; and

(E) If appropriate, acquisition of daily living skills and functional vocational evaluation; and

(d) May be special education, if provided as specially designed instruction, or related services, if required to assist a student with a disability to benefit from special education.

(41) “Ward of the state” means child who is in the temporary or permanent custody of, or committed to, the Department of Human Services or Oregon Youth Authority through the action of the juvenile court.

Stat. Auth.: ORS 343.041, 343.045, 343.155 & 343.223

Stats. Implemented: ORS 343.045, 343.155, 343.223, 34 CFR 300.5, 300.6, 300.8, 300.11, 300.15, 300.19, 300.22, 300.27, 300.28, 300.29, 300.30, 300.34, 300.37, 300.39, 300.42, 300.43 & 300.45

Hist.: 1EB 8-1978, f. & ef. 3-3-78; 1EB 35-1978, f. & ef. 10-5-78; 1EB 18-1979(Temp), f. & ef. 11-15-79; 1EB 5-1980, f. 2-22-80, ef. 2-23-80; 1EB 18-1983(Temp), f. & ef. 12-20-83; 1EB 5-1985, f. 1-30-85, ef. 1-31-85; EB 39-1988(Temp), f. & cert. ef. 11-15-88; EB 18-1989, f. & cert. ef. 5-15-89; EB 28-1989(Temp), f. & cert. ef. 10-16-89; EB 3-1990, f. & cert. ef. 1-26-90; EB 25-1991(Temp), f. & cert. ef. 11-29-91; EB 16-1992, f. & cert. ef. 5-13-92; EB 9-1993, f. & cert. ef. 3-25-93; EB 18-1994, f. & cert. ef. 12-15-94; EB 22-1995, f. & cert. ef. 9-15-95; ODE 10-2000, f. & cert. ef. 5-3-00; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0005, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 26-2008, f. 10-23-08, cert. ef. 10-24-08; ODE 13-2009, f. & cert. ef. 12-10-09; ODE 12-2011, f. & cert. ef. 10-31-11; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12; ODE 29-2013, f. & cert. ef. 12-18-13; ODE 41-2014(Temp), f. & cert. ef. 9-8-14 thru 3-7-15; ODE 47-2014, f. & cert. ef. 12-17-14; ODE 9-2015, f. & cert. ef. 7-13-15

581-015-2005

Criteria for Approving School District Special Education Programs

(1) School districts operating or initiating special education programs must have their programs approved by the State Superintendent of Public Instruction in order to qualify such programs for state reimbursement. As part of this process, districts must subscribe to the following:

(a) In accordance with OAR 581-015-2245, school districts must ensure that a continuum of alternative placements is available to meet the individual special education and related services needs of all children with disabilities for whom the district is responsible pursuant to ORS 339, OAR 581-021-0019, or open enrollment under section 9, chapter 718, Oregon Laws 2011. For all school purposes residency for children with disabilities enrolled in charter schools is determined in accordance with ORS Chapter 338.

(b) Special education must be established and conducted as an integral part of the district’s regular school program.

(c) Children who require special education have the same rights and privileges provided to other students.

(2) In addition, the school district must have on file with the Oregon Department of Education a set of assurances and other documentation as required that ensure district compliance with requirements set forth in Oregon Revised Statutes and Oregon Administrative Rules for the education of children with disabilities.

Stat. Auth.: ORS 343.041, 343.045

Stats. Implemented: ORS 343.221

Hist.: 1EB 208, f. 12-19-75, ef. 1-16-76; Renumbered from 581-022-0175; 1EB 248, f. & ef. 9-23-76; 1EB 269, f. & ef. 12-22-77; 1EB 48-1978, f. & ef. 11-17-78; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0035, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 10-2011(Temp), f. & cert. ef. 8-23-11 thru 2-19-12; ODE 8-2012, f. & cert. ef. 2-17-12; ODE 38-2014(Temp), f. & cert. ef. 9-3-14 thru 3-2-15; Administrative correction, 3-23-15; ODE 12-2015, f. & cert. ef. 7-15-15

581-015-2010

Census and Data Reporting

(1) Each school district must report to the Department all children with disabilities, for whom the district has responsibility for FAPE, who have been identified, located and evaluated and are receiving early intervention, early childhood special education or special education from a public or private educational program on December 1 of each school year.

(2) Charter School Students. Each school district in which a charter school is located reports children with disabilities enrolled in the charter schools located in the district and receiving services described in (1), regardless of parental residency. Residency for children enrolled in charter schools is determined in accordance with ORS Chapter 338.

(3) If no children have been identified, located, and evaluated as being disabled, school districts must report this fact.

(4) Private School Students. Each school district must conduct an annual count of the number of private school children as follows:

(a) On October 1 of each year, each school district must count all children attending private schools located within the boundaries of the district.

(b) On December 1 of each year, each school district must count all parentally placed children with disabilities attending non-profit private schools located within the boundaries of the district,

in accordance with OAR 581-015-2475, whether or not these children are receiving equitable special education services as described in OAR 581-015-2460.

(5) School districts must report to the Department additional data as required by the Department for the preparation of reports to federal or state agencies. The Department will notify school districts of additional data needed to meet the requirements of federal or state law and the applicable reporting dates.

Stat. Auth.: ORS 343.041, 343.045 & 343.055;

Stats. Implemented: ORS 343.155, 34 CFR 300.137 & 139

Hist.: ODE 2-2000, f. & cert. ef. 2-1-00; Renumbered from 581-015-0038,

ODE 10-2007, f. & cert. ef. 4-25-07; ODE 10-2011(Temp), f. & cert. ef. 8-23-

11 thru 2-19-12; ODE 8-2012, f. & cert. ef. 2-17-12; ODE 38-2014(Temp), f. &

cert. ef. 9-3-14 thru 3-2-15; Administrative correction, 3-23-15; ODE 12-2015,

f. & cert. ef. 7-15-15

581-015-2015

Compliance Monitoring

School districts involved in the education of children with disabilities will be monitored by the Department on a regular basis to ensure compliance with the requirements of the Individuals with Disabilities Education Act, Oregon Revised Statutes, and Oregon Administrative Rules. Monitoring procedures may include district self-assessment, data collection, analysis and reporting, on-site visits, review of policies and procedures, review of the development and implementation of IEPs, improvement planning, and auditing federal fund use.

Stat. Auth.: ORS 343.041, 343.045, 343.055

Stats. Implemented: ORS 343.041, 343.055

Hist.: 1EB 15-1983, f. 11-23-83, ef. 11-25-83; EB 6-1993, f. & cert. ef. 2-11-93;

EB 11-1995, f. & cert. ef. 5-25-95; ODE 2-2003, f. & cert. ef. 3-10-03; Renum-

bered from 581-015-0048, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2020

Recovery of Funds for Misclassified Children

(1) School districts must ensure that children identified on the special education child count under Part B of the Individuals with Disabilities Education Act are limited to eligible children.

(2) For purposes of this rule, an “eligible child” means a child aged three through school-age who:

(a) Is determined to be a child with a disability under OAR 581-015-2130 to 581-015-2180;

(b) Has a current IEP or IFSP that provides for special education and related services that is being implemented; and

(c) Is receiving a free appropriate public education.

(3) For the purposes of this rule, an “ineligible child” means a child for whom one or more of the requirements in subsection (2) is not met.

(4) The Department may recover funds for ineligible children included on a district’s special education child count.

Stat. Auth.: ORS 343.041, 343.055

Stats. Implemented: ORS 343.243

Hist.: 1EB 269, f. & ef. 12-22-77; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0049, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2025

Advanced Payment to School Districts for Special Education Programs

(1) In accordance with ORS 343.670, the Department may make advance payments to a school district or education service district that operates a special education program approved by the State Superintendent of Public Instruction.

(2) Advance payments paid by the Oregon Department of Education to the school or education service district will be made quarterly.

(3) The first three advance payments will be calculated either upon the district’s reimbursement for the prior year or the district’s estimated costs for special education for the coming school year, at the discretion of the Department.

(4) The fourth payment will be based upon the district’s approved reimbursement for the current claim less the three advance payments.

(5) In no event will the fourth payment be remitted until the Department has completed the final auditing of a district’s claim.

Stat. Auth.: ORS 343.041, 343.055

Stats. Implemented: ORS 343.670

Hist.: 1EB 269, f. & ef. 12-22-77; 1EB 14-1979, f. 10-4-79, ef. 10-5-79; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0057, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2030

Procedures for Complaints as Required by IDEA Regulations

(1) An organization or individual, including an organization or individual from another state, may file with the State Superintendent of Public Instruction a written, signed complaint that the Department, or a sub grantee, including but not limited to a regional program, an education service district or a local education agency is violating or has violated the Individuals with Disabilities Education Act or regulations under that Act.

(2) The complainant must send a copy of the complaint to the public agency serving the child at the same time the complainant files the complaint with the Department.

(3) Upon receipt of a complaint under this provision, the Department will provide a copy of the Notice of Procedural Safeguards to a parent or adult student who files a complaint.

(4) If a complaint alleges violations outside the scope of the Individuals with Disabilities Education Act, the complainant will be informed of alternative procedures that are available to address the complainant’s allegations.

(5) The complaint must allege a violation that occurred not more than one year before the date that the complaint is received by the Department

(6) The complaint must include the facts on which the complaint is based. If the facts as alleged by the complainant would be considered a violation of the Individuals with Disabilities Education Act:

(a) The Superintendent will request the public agency to respond to the allegations. The Superintendent (or designee) may also initiate attempts to resolve the complaint through mediation or alternative dispute resolution, including local resolution.

(b) The respondent must respond to the allegations and furnish any information or documents requested by the Superintendent within ten business days from the receipt of request for response from the Superintendent unless another time period is specified by the Superintendent. At the same time, the respondent must send a copy of the response and documents to the complainant. If the complainant does not otherwise have access to confidential information in the response, the respondent must provide the complainant with the non-confidential portion(s) of the response.

(7) The Superintendent will give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint or the public agency's response. The complainant must provide a copy of any further written information to the public agency that is the subject of the complaint, unless it would be a hardship to do so. In those situations, the Department will provide a copy of the written information to the public agency.

(8) The Superintendent will review all of the written information submitted by the complainant and the public agency to resolve the allegations in the complaint.

(9) The Superintendent may conduct further investigation, such as telephone or onsite interviews, to the extent necessary to resolve the complaint allegations.

(10) If a written complaint is received that is also the subject of a due process hearing under OAR 581-015-2345, or contains multiple issues of which one or more are part of that hearing, the Superintendent will set aside any part of the complaint that is being addressed in the due process hearing, until the conclusion of the hearing. Any issue in the complaint that is not a part of the due process hearing will be resolved using the time limit and procedures in this rule.

(11) If an issue raised in a complaint has previously been decided in a due process hearing involving the same parties, the hearing decision is binding and the Superintendent will inform the complainant to that effect. A complaint alleging a school district's failure to implement a due process decision will be resolved by the Superintendent.

(12) The Superintendent will issue a written decision that addresses each allegation in the complaint and contains findings of fact, conclusions, and reasons for the Department's final decision within 60 days of receipt of the complaint unless:

(a) Exceptional circumstances related to the complaint require an extension; or

(b) The complainant and public agency agree in writing to extend the time to try mediation or local resolution.

(13) If the Superintendent finds a violation, the Superintendent's written decision will include any necessary corrective action to be undertaken as well as any documentation to be supplied by any party to ensure that the corrective action has occurred. If the decision is that a school district has failed to provide appropriate services, the Superintendent will address:

(a) How to remediate the failure to provide those services, including, as appropriate, compensatory education, monetary reimbursement or other corrective action appropriate to the needs of the child; and

(b) Appropriate future provision of services for all children with disabilities.

(14)(a) Parties may seek judicial review of the final order under ORS 183.484. Judicial review may be obtained by filing a petition for review within 60 days of service of the final order with the Marion County Circuit Court or with the Circuit Court for the County where the party resides.

(b) Pursuant to OAR 137-004-0080 and ORS 183.484(2), a party to the complaint may request reconsideration of the final order by the Superintendent within 60 days after the date of the order. Except as provided in this subsection, the Superintendent

and a party seeking reconsideration shall follow the procedure for reconsideration described in OAR 137-004-0080.

(c) Notwithstanding OAR 137-004-0080, the Superintendent may not stay a final order upon request by a party and any party subject to Corrective Action resulting from the order must commence the Corrective Action according to the final order.

(15) Corrective action ordered by the Superintendent must be completed within the timelines established in the final order unless another time period is specified by the Department.

(16) At any time during the pendency of the complaint, if the Superintendent determines that there is a strong likelihood that the respondent has significantly breached the Individuals with Disabilities Education Act and that delay may cause irreparable harm, the Superintendent may order interim relief.

(17) If the respondent refuses to voluntarily comply with a plan of correction when so ordered, the Superintendent may take one or more of following actions:

(a) Disapprove in whole or part, the respondent's application for federal funding;

(b) Withhold or terminate further assistance to the respondent for an approved project;

(c) Suspend payments, under an approved project, to a respondent;

(d) Order, in accordance with a final state audit resolution determination, the repayment of specified federal funds; and

(e) Withhold all or part of a district's basic school support in accordance with ORS 327.103.

(18) Before the Superintendent denies or withholds funding or orders reimbursement as provided in section (17) of this rule, the Superintendent will notify the respondent of the right to request a hearing in accordance with ORS 183.415.

(a) The hearing request must be made to the Superintendent within 30 days of receiving notice;

(b) The Superintendent will appoint a hearings officer who will conduct the hearing in accordance with ORS 183.413 to 183.470;

(c) The burden of proof at the hearing is on the Department;

(d) The Superintendent's decision is final, subject to appeal to the United States Secretary of Education or the Oregon Court of Appeals.

(19) No person may be subject to retaliation or discrimination for having filed or participated in this complaint procedure. Any person who believes that she or he has been subject to retaliation or discrimination may file a complaint under this rule with the Superintendent.

Stat. Auth.: ORS 343.041

Stats. Implemented: ORS 343.041, 34 CFR 300.151-153; 34 CFR 300.504(a)(2)
Hist.: 1EB 28-1980, f. & cert. ef. 12-23-80; EB 26-1987(Temp), f. & cert. ef. 11-17-87; EB 22-1988, f. & cert. ef. 5-24-88; EB 32-1988, f. & cert. ef. 8-3-88; EB 44-1990, f. & cert. ef. 9-12-90; EB 35-1992(Temp), f. & cert. ef. 11-24-92; EB 8-1993, f. & cert. ef. 3-25-93; ODE 15-1999, f. & cert. ef. 9-24-99, Renumbered from 581-001-0010; ODE 29-2000, f. & cert. ef. 12-11-00; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0054, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 6-2011, f. & cert. ef. 4-22-11; ODE 9-2013(Temp), f. & cert. ef. 4-9-13 thru 10-6-13; ODE 14-2013, f. & cert. ef. 7-11-13

581-015-2035

Minimum Standards for Sign Language Interpreters Serving Students in Public Schools

(1) Definitions. For purposes of this rule, the following definitions shall apply:

(a) "CI" means Certificate of Interpretation issued by RID.

(b) "CT" means Certificate of Transliteration issued by RID.

(c) "EI/ECSE" means Early Intervention and Early Childhood Special Education.

(d) "EIPA" means the Educational Interpreter Performance Assessment®, including both the written and performance components.

(e) "NIC" means the National Interpreter Certification by RID.

(f) "Public School" means a public agency or school district or as defined in OAR 581-015-2000.

(g) "RID" means Registry of Interpreters for the Deaf Inc.

(h) “Sign Language Interpreter” means a person who provides educational interpreting services to students with hearing impairments.

(i) “Student” means a student with a hearing impairment who is:

(A) Eligible for EI/ECSE or special education services under OAR 581-015-2150; or

(B) A qualified student with a disability under Section 504 as defined in OAR 581-015-2390.

(2) Minimum Standard. A public school may employ or contract for the services of a sign language interpreter for a student only if the sign language interpreter meets the following minimum standards:

(a) The sign language interpreter must achieve a passing score of 3.5 or above on the EIPA Performance Test or hold RID NIC, CI or CT Certification; and

(b)(A) Hold a Bachelor’s or Associate’s Degree from an Interpreter Education Program or in a related educational field; or

(B) Achieve a passing score on the EIPA Written test.

(3) Continuing professional development. Each sign language interpreter must complete and document 12 seat hours of continuing professional development related to sign-language interpretation each school year that the sign language interpreter is employed by or working under a contract for a public school in Oregon. A public school may only employ or contract for the services of sign language interpreters that meet this continuing professional development requirement.

(4) Timeline for meeting rule requirements. Sign language interpreters must meet the following requirements if the interpreter is employed by or under a contract with a public school:

(a) On or after July 1, 2008, the interpreter must meet the standards required by section (3) of this rule.

(b) On or after July 1, 2013, the interpreter must meet all of the requirements of this rule.

Stat. Auth.: ORS 185.225, 343.041

Stats. Implemented: ORS 185.110, 185.225

Hist.: ODE 11-2008, f. & cert. ef. 4-21-08

581-015-2040

Free Appropriate Public Education (FAPE) and Age Ranges

(1) Except as provided in OAR 581-015-2045, school districts must provide a free appropriate public education all school-age children with disabilities for whom the district is responsible pursuant to ORS 338, ORS 339, OAR 581-021-0019, or open enrollment under section 9, chapter 718, Oregon Laws 2011, “School-age children” are children who have reached five years of age but have not yet reached 21 years of age on or before September 1 of the current school year.

(2) An otherwise eligible person whose 21st birthday occurs during the school year is eligible for FAPE for the remainder of the school year.

(3) The requirements of this rule also apply to children with disabilities who have been suspended or expelled from school in accordance with OAR 581-015-2410 to 581-015-2440.

Stat. Auth.: ORS 343.055

Stats. Implemented: ORS 338.165, 343.041, 339.115, 34 CFR 300.101

Hist.: ODE 3-2000, f. & cert. ef. 2-1-00; Renumbered from 581-015-0600, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 10-2011(Temp), f. & cert. ef. 8-23-11 thru 2-19-12; ODE 8-2012, f. & cert. ef. 2-17-12; ODE 38-2014(Temp), f. & cert. ef. 9-3-14 thru 3-2-15; Administrative correction, 3-23-15; ODE 12-2015, f. & cert. ef. 7-15-15

581-015-2045

Age Limitations and Exceptions to FAPE

(1) A district must admit an otherwise eligible student who has not yet reached 21 years of age on or before September 1 of the current school year.

(2) A student who receives a regular high school diploma is no longer entitled to FAPE. A regular education diploma does not include an alternative degree that is not fully aligned with the state’s academic standards, such as a certificate or general educational development credential (GED).

(3) If a school district chooses to provide special education to a student with a regular high school diploma, that student remains eligible for FAPE.

(4) The obligation to make a FAPE available to individuals with disabilities 18 through 21 years old who have been convicted as adults and are incarcerated in an adult correctional facility applies only to those individuals who, in their last educational placement before their incarceration in the adult correctional facility:

(a) Were identified as being a child with a disability as defined in OAR 581-015-2000(4); or

(b) Had an individualized education program.

(5) For purposes of subsection (4) of this rule,

(a) “Adult correctional facility” means:

(A) A local correctional facility as defined ORS 169.005;

(B) A regional correctional facility as defined in ORS 169.620;

or

(C) A Department of Corrections institution as defined in ORS 421.005;

(b) “Identified as being a child with a disability” means has been determined eligible or was involved in the process of determining the individual’s disability and eligibility for special education and related services under OAR 581-015-2130 to 581-015-2180; and

(c) “Last educational placement” includes juvenile correctional facilities.

Stat. Auth.: ORS 343.055,

Stats. Implemented: ORS 339.115, 34 CFR 300.102

Hist.: ODE 3-2000, f. & cert. ef. 2-1-00; ODE 2-2003, f. & cert. ef. 3-10-03;

Renumbered from 581-015-0601, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2050

Graduation

(1) Graduation with a regular high school diploma under OAR 581-022-1130 constitutes a change in placement, requiring written prior notice in accordance with OAR 581-015-2310.

(2) A school district is not required to conduct a reevaluation before terminating eligibility due to graduation with a regular high school diploma.

(3) In accordance with OAR 581-022-1130, a school district may award an alternative document as described in local school board policies to a student with a disability. Graduation with an alternative document does not terminate eligibility under OAR 581-015-2045(2), require an evaluation, or require written prior notice.

Stat. Auth.: ORS 343.055

Stats. Implemented: ORS 339.115, 343.295

Hist.: ODE 3-2000, f. & cert. ef. 2-1-00; Renumbered from 581-015-0602, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2055

Assistive Technology

(1) School districts must ensure that assistive technology devices or assistive technology services, or both, are made available to a child with a disability if required as a part of the child’s special education, related services or supplementary aids and services.

(2) On a case-by-case basis, the use of school-purchased assistive technology devices in a child’s home or in other settings is required if the child’s IEP team determines that the child needs access to those devices to receive a free appropriate public education.

(3) School district policies govern liability, if any, for the loss or damage of assistive technology devices.

(4) School district policies govern transfer of an assistive technology device when a child with a disability using the device ceases to attend school in the district that purchased the device. “Transfer” means the process by which a school district that has purchased an assistive technology device may sell, lease or loan the device for the continuing use of a child with a disability who is ceasing to attend school in the district.

Stat. Auth.: ORS 343.041, 343.045 & 343.223

Stats. Implemented: ORS 343.045, 343.223, 34 CFR 300.105

Hist.: ODE 34-1999, f. 12-13-99, cert. ef. 12-14-99; Renumbered from 581-015-0560, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2060

Accessible Materials

(1) School districts must ensure the timely provision of print instructional materials, including textbooks, that comply with the National Instructional Materials Accessibility Standards (NIMAS) for students who are blind or print disabled, in accordance with OAR 581-022-1640.

(2) School districts must ensure the timely provision of instructional materials in accessible formats to children who need instructional materials in accessible formats, including those who are not blind or print disabled.

Stat. Auth.: ORS 343.041, 343.045,

Stats. Implemented: ORS 343.045, 34 CFR 300.172

Hist.: ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2065

Extended School Year Services

(1) School districts must ensure that extended school year services are available as necessary to provide a free appropriate public education to a child with a disability.

(2) Extended school year services must be provided only if the child's IEP team determines, on an individual basis, that the services are necessary for the provision of free appropriate public education to the child.

(3) A school district may not:

(a) Limit extended school year services to particular categories of disability; or

(b) Unilaterally limit the type, amount, or duration of those services.

(4) The purpose of extended school year services is the maintenance of the child's learning skills or behavior, not the teaching of new skills or behaviors.

(5) School districts must develop criteria for determining the need for extended school year services. Criteria must include regression and recoupment time based on documented evidence or, if no documented evidence, on predictions according to the professional judgment of the team.

(6) For the purposes of section (5) of this rule:

(a) "Regression" means significant loss of skills or behaviors in any area specified on the IEP as a result of an interruption in education services;

(b) "Recoupment" means the recovery of skills or behaviors specified on the IEP to a level demonstrated before the interruption of education services.

(7) For the purposes of this rule, "extended school year services" means special education and related services that:

(a) Are provided to a child with a disability;

(A) Beyond the normal school year of the school district;

(B) In accordance with the child's IEP; and

(C) At no cost to the parents of the child; and

(b) Meet the standards of the Department.

Stat. Auth.: ORS 343.055, 343.151

Stats. Implemented: ORS 343.151, 34 CFR 300.106

Hist.: ODE 3-2000, f. & cert. ef. 2-1-00; Renumbered from 581-015-0605, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2070

Nonacademic Services

(1) School districts must take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP team, to provide nonacademic and extracurricular services and activities in a manner to afford children with disabilities an equal opportunity for participation in those services and activities.

(2) Nonacademic and extracurricular services and activities may include meals, recess periods, counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the school district, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the school district and assistance in making outside employment available.

Stat. Auth.: ORS 343.041, 343.045 & 343.055

Stats. Implemented: ORS 343.045, 34 CFR 300.107

Hist.: 1EB 269, f. & ef. 12-22-77; EB 11-1995, f. & cert. ef. 5-25-95; ODE 31-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03; ODE 8-2004(Temp), f. & cert. ef. 5-11-04 thru 10-15-04; ODE 9-2004, f. & cert. ef. 7-9-04; Renumbered from 581-015-0062, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2075

Charter Schools

(1) For all school purposes, residency for charter school children is determined in accordance with ORS Chapter 338, revised 2011.

(2) In accordance with procedural safeguards for special education, a school district must serve resident children with disabilities attending public charter schools located in the district in the same manner as the school district serves children with disabilities in other district schools, including but not limited to:

(a) Identifying, locating, and evaluating students, in accordance with OAR 581-015-2100–581-015-2180, to determine which children enrolled in a public charter school may be in need of special education and related services

(b) Implementing special education and related services according to each child's individual education programs (IEP) in accordance with OAR 581-015-2200–581-015-2230.

(c) Providing supplementary and related services on site at the public charter school to the same extent to which the school district has a policy or practice of providing such services on site to its other public schools.

(3) A school district in which a public charter school is located must provide IDEA funds to those charter schools on the same basis as the school district provides IDEA funds to other public schools in the district, including proportional distribution based on relative enrollment of children with disabilities, at the same time as funds are distributed to other public schools in the district.

(4) When a student enrolls in a public charter school, the school district in which the public charter school is located shall:

(a) Provide written notification of the student's enrollment to the student in which the student resides;

(b) Request, in accordance with applicable confidentiality provisions in IDEA and OAR 581-015-0220 through 581-015-0400 and 34 CFR §§300.610 through 300.620, the student records of the student, including all information related to an individualized education program developed for the student;

(c) If a student resides in another district, provide written notification to the student's parent, guardian, or person in parental relationship to provide information about:

(A) The school district's responsibility to identify, locate and evaluate to determine a student's need for special education and related services and to provide those special education services in the public charter school; and

(B) The methods by which the school district may be contacted to answer questions or provide information related to special education and related services.

(5) Each school district that receives an individualized education program (IEP) under subsection (4)(b) must, in consultation with the child's parents, provide a free appropriate public education to the child, in accordance with OAR 581-015-2230(1), until the new district implements the individualized education program from the previous district or develops, adopts and implements a new IEP that meets the applicable requirements. If the information received was in effect in a previous school district in another state, the district will implement it in accordance with OAR 581-015-2230(2).

(6) When a student no longer is enrolled in a public charter school for any reason, the school district in which the public charter school is located shall notify

(a) The school district in which the student resides to provide notice:

(A) that the student no longer is enrolled in the public charter school; and

(B) that the district will provide the student education records including all information related to the student's individualized education program if the student seeks enrollment or services from

the district in which the student resides. Transfer of the information in (6)(b)(ii) is subject to the confidentiality provisions of IDEA and OAR 581-021-0230–581-021-0400.

(b) The student's parent, guardian or person in parental relationship to provide information about:

(A) The responsibility of the school district in which the student resides to identify, locate and evaluate students and implement services; and

(B) The methods by which the school district in (6)(a) may be contacted to answer questions or provide information about special education and related services.

(C) The responsibility of the district to provide student education records, including all information related to the student's individualized education program, if the student seeks enrollment or services from another school district, including the parental resident district. Transfer of student education records (6)(b)(ii) is subject to the requirements of IDEA and OAR 581-021-0230–581-021-0400.

Stat. Auth.: ORS 338.165

Stats. Implemented: ORS 338.165, 343.045, 34 CFR 300.209

Hist.: ODE 10-2007, f. & cert. ef. 4-25-07; ODE 10-2011(Temp), f. & cert. ef. 8-23-11 thru 2-19-12; ODE 8-2012, f. & cert. ef. 2-17-12

581-015-2080

Child Find

(1) The requirements of this rule apply to all children unless they are no longer entitled to a free appropriate public education under OAR 581-015-2040–581-015-2050.

(2) Pursuant to ORS 338, 339, OAR 581-021-0019, or open enrollment under section 9, chapter 718, Oregon Laws 2011 school districts must identify, locate and evaluate all children with disabilities for whom they are responsible, regardless of the severity of the disability, who are in need of early intervention, early childhood special education, or special education services, including:

(a) Highly mobile children with disabilities (such as migrant and homeless children),

(b) Children who are wards of the state;

(c) Indian preschool children who reside on reservations;

(d) Children who are suspected of having a disability even though they are advancing from grade to grade;

(e) Children enrolled in public charter schools;

(f) Children who are home schooled;

(g) Children below the age of compulsory school attendance who are not enrolled in a public or private school program; and

(h) Children above the age of compulsory school attendance who have not graduated with a regular high school diploma; and

(i) Children attending private schools, pursuant to OAR 581-015-2085.

(3) For purposes of this rule, residency is determined in accordance with ORS Chapter 339, except for children enrolled in charter schools. Residency for children enrolled in charter schools is determined in accordance with ORS Chapter 338. The district in which the charter school is located is responsible for child find for students enrolled in the charter school regardless of parental resident district.

(4) The district in which the private school is located is responsible for conducting child find activities for all children enrolled in the private school, in accordance with OAR 581-015-2085, regardless of parental resident district.

Stat. Auth.: ORS 343.041, 343.045, 343.157

Stats. Implemented: ORS 343.045, 343.157, 34 CFR 300.111, 34 CFR 303.302, 34 CFR 301

Hist.: 1EB 269, f. & ef. 12-22-77; 1EB 14-1983, f. 11-23-83, ef. 11-25-83; EB 11-1995, f. & cert. ef. 5-25-95; ODE 16-2000, f. & cert. ef. 5-23-00; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0037, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 10-2011(Temp), f. & cert. ef. 8-23-11 thru 2-19-12; ODE 8-2012, f. & cert. ef. 2-17-12; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12; ODE 38-2014(Temp), f. & cert. ef. 9-3-14 thru 3-2-15; Administrative correction, 3-23-15; ODE 12-2015, f. & cert. ef. 7-15-15

581-015-2085

Child Find for Children Attending Private Schools

(1) Each school district must locate, identify and evaluate all children with disabilities who are enrolled by their parents in

private, including religious, elementary and secondary schools located within the boundaries of the school district.

(2) The child find process for parentally-placed private school children must be designed to ensure the equitable participation of parentally-placed private school children with disabilities and an accurate count of such children.

(3) The school district's child find activities for parentally-placed private school children must be similar to, and completed within a comparable time period, to child find activities for public school children with disabilities.

(4) The cost of implementing child find activities, including individual evaluations, may not be considered in determining whether a school district has met its obligations to spend a proportionate share under OAR 581-015-2470.

(5) These child find requirements apply to all parentally-placed private school children, including those children who are residents of another state.

(b) Each school district must consult with appropriate representatives of private school children with disabilities on how to carry out these activities, in accordance with OAR 581-015-2480.

Stat. Auth.: ORS 343.041, 343.045, 343.157

Stats. Implemented: ORS 343.045, 343.157, 34 CFR 300.131

Hist.: ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2090

Consent

(1) Consent means that the parent or adult student:

(a) Has been fully informed, in his or her native language or other mode of communication, of all information relevant to the activity for which consent is sought; and

(b) Understands and agrees in writing to the carrying out of the activity for which his or her consent is sought.

(2) Consent is voluntary on the part of the parent and meets the requirements of the consent provisions of this rule and 34 CFR 300.622 and 34 CFR 99.30 implementing IDEA, and FERPA respectively.

(3) Consent for initial evaluation:

(a) The school district must provide notice under OAR 581-015-2310 and obtain informed written consent from the parent or adult student before conducting an initial evaluation to determine if a child qualifies as a child with a disability under OAR 581-015-2130 through 581-015-2180.

(A) Consent for initial evaluation may not be construed as consent for the initial provision of special education and related services.

(B) The school district must make reasonable efforts to obtain the informed consent from a parent for an initial evaluation to determine a child's eligibility for special education services.

(b) If a parent of a child enrolled in public school or seeking to be enrolled in public school does not provide consent for an initial evaluation, does not respond to a request for consent for an initial evaluation, or revokes consent for an initial evaluation, the school district may, but is not required to, pursue the initial evaluation of the child using mediation or due process hearing procedures. A district does not violate its child find obligations if it declines to pursue the evaluation using these procedures.

(c) Consent for initial evaluation for a child who is a ward of the state may be obtained under OAR 581-015-2095(2).

(4) Consent for initial provision of services:

(a) A school district must obtain informed consent from the parent of the child before the initial provision of special education and related services to the child.

(b) The school district must make reasonable efforts to obtain informed consent from the parent for the initial provision of special education and related services to the child.

(c) If a parent or adult student does not respond or refuses to consent for initial provision of special education and related services or revokes consent for the initial provision of special education and related services, the school district may not seek to provide special education and related services to the child by using mediation or due process hearing procedures.

(d) If a parent or adult student refuses to grant consent for initial provision of special education and related services, does not respond to a request to provide such consent, or revokes consent for the initial provision of special education and related services:

(A) The school district will not be considered to be in violation of the requirement to make available a free appropriate public education to the child for the failure to provide the child with the special education and related services for which the school district requests consent; and

(B) The school district is not required to convene an IEP meeting or develop an IEP for the child for the special education and related services for which the school district requests such consent.

(e) If, at any time subsequent to the initial provision of special education and related services, the parent or adult student revokes consent in writing for the continued provision of special education and related services, the school district

(A) May not continue to provide special education and related services to the student, but must provide prior written notice in accordance with OAR 581-015-2310 before ceasing the provision of special education and related services; and

(B) Is not required to amend the student's education records to remove any references to the student's receipt of special education and related services because of the revocation of consent.

(5) Consent for reevaluation:

(a) A school district must obtain informed parent consent before conducting any reevaluation of a child with a disability, except as provided in subsections (b) and OAR 581-015-2095.

(b) If a parent refuses to consent to the reevaluation or revokes consent for the reevaluation, the school district may, but is not required to, pursue the reevaluation by using mediation or due process hearing procedures. A district does not violate its child find obligations if it declines to pursue the reevaluation using these procedures.

(6) Consent to Access Public Benefits or Insurance:

(a) Prior to accessing a child or parent's public benefits or insurance for the first time, or disclosing a child's personally identifiable information to a State's public benefits or insurance program for the first time, a public agency or school district must obtain informed consent in accordance with IDEA 34 CFR 300.622 and the Family Rights and Privacy Act (FERPA (34 CFR 99.30)).

(b) Such consent must specify:

(A) The personally identifiable information that may be disclosed (e.g., records or information about the services that may be provided to a particular child);

(B) The purpose of the disclosure (e.g., billing for services), and

(C) The agency to which the disclosure may be made (e.g., the State's public benefits or insurance program (e.g., Medicaid); and

(D) Specify that the parent understands and agrees that the public agency may access the child's or parent's public benefits or insurance to pay for services.

(7) Revocation of consent:

(a) A parent or adult student may revoke consent at any time before the completion of the activity or action for which they have given consent.

(A) A parent or adult student may revoke consent for an evaluation or reevaluation that has not yet been conducted.

(B) A parent or adult student may revoke consent for the provision of special education services in writing at any time before or during the provision of those services.

(C) A parent or adult student may revoke consent for release of personally identifiable information to the State's public benefits or insurance program (e.g., Medicaid).

(b) If a parent or adult student revokes consent, that revocation is not retroactive.

(8) Other consent requirements:

(a) The school district must document its reasonable efforts to obtain parent consent in accordance with OAR 581-015-2195(3).

(b) If a parent of a child who is home schooled or placed in a private school by the parents at their own expense does not provide

consent for the initial evaluation or the reevaluation, or the parent does not respond to a request for consent:

(A) The school district may not use mediation or due process hearing procedures to seek consent; and

(B) The school district is not required to consider the child as eligible for special education services.

(c) A refusal to consent to one service or activity may not be used to deny the parent or child any other service, benefit, or activity of the school district, except as provided in this rule.

Stat. Auth.: ORS 343.041, 343.045, 343.055, 343.155 & 343.164

Stats. Implemented: ORS 343.155, 343.164, 34 CFR 300.9, 300.154, 300.300 & 300.622

Hist.: 1EB 269, f. & ef. 12-22-77; 1EB 37-1978, f. & ef. 10-5-78; EB 9-1993, f. & cert. ef. 3-25-93; EB 11-1995, f. & cert. ef. 5-25-95; ODE 16-1999, f. & cert. ef. 9-24-99; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0039, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 13-2009, f. & cert. ef. 12-10-09; ODE 11-2013(Temp), f. & cert. ef. 4-25-13 thru 10-21-13; ODE 12-2013, f. & cert. ef. 5-30-13

581-015-2095

Exceptions to Consent

(1) Written parent or adult student consent is not required before:

(a) Reviewing existing data as part of an evaluation or a reevaluation;

(b) Administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children; or

(c) Conducting evaluation tests, procedures or instruments that are identified on a child's IEP as a measure for determining progress; or

(d) Conducting a screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation.

(2) Consent for initial evaluation for wards of the state: If a child is a ward of the state and is not residing with the child's parent, the public agency is not required to obtain informed written consent from the parent for an initial evaluation to determine whether the child is a child with a disability if:

(a) Despite reasonable efforts to do so, the agency cannot discover the whereabouts of the parent of the child;

(b) The rights of the parents of the child have been terminated in accordance with state law; or

(c) The rights of the parent to make educational decisions have been subrogated by a judge in accordance with state law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.

(3) If, after reasonable efforts to obtain parent consent, the parent does not respond, the school district may conduct a reevaluation without consent, unless the reevaluation is an individual intelligence test or test of personality. "Reasonable efforts" means that the school district has used procedures consistent with OAR 581-015-2195(3).

(4) Written consent is not required if an administrative law judge determines under OAR 581-015-2375 that the evaluation or reevaluation is necessary to ensure that the child is provided with a free appropriate public education.

Stat. Auth.: ORS 343.041, 343.045, 343.055, 343.164;

Stats. Implemented: ORS 343.155, 343.164, 34 CFR 300.300, 300.302

Hist.: ODE 16-1999, f. & cert. ef. 9-24-99; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0042, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2100

Responsibility for Evaluation and Eligibility Determination

(1) For school-age children, school districts and juvenile and adult corrections education programs are the public agencies responsible for evaluating children and determining their eligibility for special education services.

(2) For preschool children,

(a) School districts are responsible for the eligibility evaluations of children for EI/ECSE services.

(b) Designated referral and evaluation agencies are responsible for determining the eligibility of children for EI/ECSE services.

(c) EI/ECSE programs are responsible for conducting any

necessary evaluations other than for eligibility determination.

Stat. Auth.: ORS 343.041, 343.045, 343.055 & 343.157

Stats. Implemented: ORS 343.055, 343.157

Hist.: ODE 12-2000, f. 5-3-00, cert. ef. 5-3-00; Renumbered from 581-015-

0700, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2105

Evaluation and Reevaluation Requirements

(1) General: A public agency must conduct an evaluation or reevaluation process in accordance with this rule and 581-015-2110 before:

(a) Determining that a child is a child with a disability under OAR 581-015-2130 through 581-015-2180;

(b) Determining that a child continues to have a disability under OAR 581-015-2130 through 581-015-2180;

(c) Changing the child's eligibility, or

(d) Terminating the child's eligibility as a child with a disability, unless the termination is due to graduation from high school with a regular diploma or exceeding the age of eligibility for a free appropriate public education under OAR 581-015-2045.

(2) Request for initial evaluation: Consistent with the consent requirements in OAR 581-015-2090, a parent or public agency may initiate a request for an initial evaluation to determine if a child is a child with a disability.

(3) When initial evaluation must be conducted:

(a) An initial evaluation must be conducted to determine if a child is eligible for special education services when a public agency suspects or has reason to suspect that:

(A) The child has a disability that has an adverse impact on the child's educational performance; and

(B) The child may need special education services as a result of the disability.

(b) The public agency must designate a team to determine whether an initial evaluation will be conducted.

(A) The team must include the parent and at least two professionals, at least one of whom is a specialist knowledgeable and experienced in the evaluation and education of children with disabilities.

(B) The team may make this decision without a meeting. If a meeting is held, parents must be invited to participate in accordance with OAR 581-015-2190.

(4) Reevaluation:

(a) The public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with OAR 581-015-2115, subject to subsection

(b) and OAR 581-015-2110(2):

(A) If the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or

(B) If the child's parents or teacher requests a reevaluation.

(b) A reevaluation for each child with a disability:

(A) May occur not more than once a year, unless the parent and public agency agree otherwise; and

(B) Must occur at least every three years, unless the parent and public agency agree that a reevaluation is unnecessary.

(5) Summary of Achievement and Performance: For a student whose eligibility terminates due to graduation with a regular diploma or exceeding the age of eligibility, a school district must provide the student with a summary of the student's academic achievement and functional performance, including recommendations on how to assist the student in meeting the student's postsecondary goals.

Stat. Auth.: ORS 343.041, 343.157

Stats. Implemented: ORS 343.146, 343.157, 34 CFR 300.301, 300.303

Hist.: ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2110

General Evaluation and Reevaluation Procedures

(1) Evaluation planning. Before conducting any evaluation or reevaluation of a child, the public agency must conduct evaluation planning in accordance with OAR 581-015-2115.

(2) Notice and consent.

(a) Before conducting any evaluation or reevaluation, the public agency must provide notice to the parent in accordance with OAR 581-015-2310 that describes any evaluation procedures the agency proposes to conduct as a result of the evaluation planning process.

(b) Before conducting any evaluation or reevaluation, the public agency must obtain informed written consent for evaluation in accordance with OAR 581-015-2090 and 581-015-2095.

(c) If the public agency refuses an evaluation or reevaluation requested by the parent, the public agency must provide the parent with prior written notice under OAR 581-015-2310.

(d) Parents may challenge the public agency's refusal to conduct a reevaluation under OAR 581-015-2345.

(3) Conduct of evaluation. In conducting the evaluation, the public agency must:

(a) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent that may assist in determining:

(A) Whether the child is a child with a disability under OAR 581-015-2130 through 581-015-2180; and

(B) The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities);

(b) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and

(c) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(4) Other evaluation procedures. Each public agency must ensure that:

(a) Assessments and other evaluation materials used to assess a child under this part:

(A) Are selected and administered so as not to be discriminatory on a racial or cultural basis;

(B) Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so;

(C) Are used for the purposes for which the assessments or measures are valid and reliable;

(D) Are administered by trained and knowledgeable personnel; and

(E) Are administered in accordance with any instructions provided by the producer of the assessments.

(b) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(c) Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

(d) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;

(e) The evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified; and

(f) The evaluation includes assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child.

(5) Evaluation timelines:

(a) Initial. An initial evaluation must be completed within 60 school days from written parent consent to the date of the meeting to consider eligibility.

(b) Reevaluation. A reevaluation must be completed within 60 school days from written parent consent (or from the date the evaluation is initiated under OAR 581-015-2095(3)(c)) to the date of the meeting to consider eligibility, continuing eligibility or the student's educational needs.

(c) Exceptions. An evaluation may be completed in more than 60 school days under the following circumstances documented in the child's educational record:

(A) The parents of a child repeatedly fail or refuse to produce the child for an evaluation, or for other circumstances outside the school district's control.

(B) The student is a transfer student in the process of evaluation and the district and the parents agree in writing to a different length of time to complete the evaluation in accordance with subsection (d);

(C) The district and the parents agree in writing to extend the timeline for an evaluation to determine eligibility for specific learning disabilities in accordance with OAR 581-015-2170.

(d) Transfer students.

(A) When a child with disabilities transfers from one school district to another school district in the same school year, the previous and current school district must coordinate any pending assessments as necessary and as expeditiously as possible to ensure prompt completion of the evaluation.

(B) The exception under subsection (c)(B) only applies if the current school district is making sufficient progress to ensure a prompt completion of the evaluation and the parent and current school district agree to a specific time for completion of the evaluation.

Stat. Auth.: ORS 343.041 & 343.157

Stats. Implemented: ORS 343.146, 343.157, 34 CFR 300.304, 300.305

Hist.: ODE 10-2007, f. & cert. ef. 4-25-07; ODE 6-2013, f. & cert. ef. 1-17-13

581-015-2115

Evaluation Planning

(1) Review of existing evaluation data. As part of an initial evaluation (if appropriate) and as part of any reevaluation, the child's IEP or IFSP team, and other qualified professionals, as appropriate, must:

(a) Review existing evaluation data on the child, including:

(A) Evaluations and information provided by the parents of the child;

(B) Current classroom-based, local, or state assessments, and classroom-based observations; and

(C) Observations by teachers and related services providers; and

(b) On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine:

(A) Whether the child is, or continues to be, a child with a disability;

(i) For a school-age child, under OAR 581-015-2130 through 581-015-2180; or

(ii) For a preschool child, under OAR 581-015-2780 or 581-015-2795;

(B) The present levels of academic achievement and related developmental needs of the child;

(C) Whether the child needs, or continues to need, EI/ECSE or special education and related services; and

(D) For reevaluation, whether the child needs any additions or modifications to special education and related services or, for a preschool child, any additions or modifications to ECSE services:

(i) To enable the child to meet the measurable annual goals in the child's IEP or IFSP; and

(ii) To participate, as appropriate, in the general education curriculum or, for preschool children, appropriate activities.

(2) Conduct of review. The team described in subsection (1) may conduct this review without a meeting. If a public agency holds a meeting for this purpose, parents must be invited to participate in conformance with OAR 581-015-2190 or, for parents of preschool children, with OAR 581-015-2750.

(3) Source of data. The public agency must administer tests and other evaluation materials as may be needed to produce the additional data identified under subsection (1)(b).

(4) Requirements if additional data are not needed.

(a) If the child's IEP or IFSP team determines that no additional data are needed to determine whether the child is or continues to be a child with a disability, and to determine the child's educational and developmental needs, the public agency must notify the child's parents:

(A) Of that determination and the reasons for it; and

(B) Of the right of the parents to request an assessment to determine whether, for purposes of services under this part, the child continues to be a child with a disability, and to determine the child's educational and developmental needs.

(b) The public agency is not required to conduct an assessment of the child unless requested to do so by the child's parents.

Stat. Auth.: ORS 343.041, 343.045, 343.055, 343.157

Stats. Implemented: ORS 343.146, 343.157, 34 CFR 300.305

Hist.: ODE 12-2000, f. 5-3-00, cert. ef. 5-3-00; Renumbered from 581-015-0701, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2120

Determination of Eligibility

(1) Upon completing the administration of assessments and other evaluation materials, a team must determine whether the child is a child with a disability under OAR 581-015-2130 through 581-015-2180 and the educational needs of the child.

(a) The team must include the parent, in accordance with OAR 581-015-2190, and two or more qualified professionals, at least one of whom is knowledgeable and experienced in the evaluation and education of children with the suspected disability. This team may be the child's IEP team.

(b) For a child suspected of having a specific learning disability, the team must meet the requirements of OAR 581-015-2170.

(2) The team must prepare an evaluation report and written statement of eligibility.

(a) The evaluation report(s) must describe and explain the results of the evaluation conducted.

(b) The written statement of eligibility must include:

(A) A list of the evaluation data considered in determining the child's eligibility;

(B) A determination of whether the child meets the minimum evaluation criteria for one of the disability categories in OAR 581-015-2130 through 581-015-2180 or 581-015-2795;

(C) A determination of whether the primary basis for the suspected disability is:

(i) A lack of appropriate instruction in reading (including the essential components of reading) or math; or

(ii) Limited English proficiency;

(D) A determination of whether the child's disability has an adverse impact on the child's educational performance;

(E) A determination of whether, as a result of the disability, the child needs special education services; and

(F) The signature of each member of the team indicating agreement or disagreement with the eligibility determination.

(c) For a child suspected of having a specific learning disability, the team's written report and documentation of determination of eligibility must meet the requirements of OAR 581-015-2170.

(3) The team must determine a child to be eligible under this rule if the child has a disability and needs special education and related services, even though the child is advancing from grade to grade.

(4) For a child who may have disabilities in more than one category, the team need only qualify the child under one disability category. However, the child must be evaluated in all areas related to the suspected disability or disabilities, and the child's IEP must address all of the child's special education needs.

(5) The team may not find a child eligible for special education services if:

(a) The determinant factor for that eligibility decision is:

(A) Lack of appropriate instruction in reading, including the essential components of reading instruction, or lack of appropriate instruction in math; or

(B) Limited English proficiency; and

(b) The child does not otherwise meet the eligibility criteria under OAR 581-015-2130 through 581-015-2180.

(6) The school district must provide a copy of the evaluation report and the documentation of determination of eligibility to the parent at no cost.

Stat. Auth.: ORS 343.045, 343.146, 343.157

Stats. Implemented: ORS 343.035, 343.146, 343.157, 34 CFR 300.306, 300.308, 300.111

Hist.: EB 22-1995, f. & cert. ef. 9-15-95; ODE 12-2000, f. 5-3-00, cert. ef. 5-3-00; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03; Renumbered from 581-015-0053, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2125

Interpretation of Evaluation Data

In interpreting evaluation data for the purpose of determining if a child is a child with a disability under OAR 581-015-2130 through 581-015-2180, and the educational needs of the child, each team must:

(1) Draw upon information from a variety of sources, including but not limited to, aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background and adaptive behavior; and

(2) Ensure that information obtained from all these sources is documented and carefully considered.

Stat. Auth.: ORS 343.041, 343.157;

Stats. Implemented: ORS 343.157, 343.045, 343.146, 343.155; 34 CFR 300.306

Hist.: 1EB 269, f. & ef. 12-22-77; EB 22-1995, f. & cert. ef. 9-15-95; ODE 12-2000, f. 5-3-00, cert. ef. 5-3-00; Renumbered from 581-015-0073, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2130

Autism Spectrum Disorder

(1) If a child is suspected of having an autism spectrum disorder, the following evaluation must be conducted:

(a) Developmental profile. A developmental profile that describes the child's historical and current characteristics that are associated with an autism spectrum disorder, including:

(A) Impairments in communication;

(B) Impairments in social interaction;

(C) Patterns of behavior, interests or activities that are restricted, repetitive, or stereotypic; and

(D) Unusual responses to sensory experiences.

(b) Observations. At least three observations of the child's behavior, at least one of which involves direct interactions with the child. The observations must occur in multiple environments, on at least two different days, and be completed by one or more licensed professionals knowledgeable about the behavioral characteristics of autism spectrum disorder.

(c) Communication assessment. An assessment of communication to address the communication characteristics of autism spectrum disorder, including measures of language semantics and pragmatics completed by a speech and language pathologist licensed by the State Board of Examiners for Speech-Language Pathology and Audiology or the Teacher Standards and Practices Commission;

(d) Medical or health assessment statement. A medical statement or a health assessment statement indicating whether there are any physical factors that may be affecting the child's educational performance;

(e) Behavior rating tool. An assessment using an appropriate behavior rating tool or an alternative assessment instrument that identifies characteristics associated with an autism spectrum disorder.

(f) Other.

(A) Any additional assessments necessary to determine the impact of the suspected disability;

(i) On the child's educational performance for a school-age child; or

(ii) On the child's developmental progress for a preschool child; and

(B) Any additional evaluations or assessments necessary to identify the child's educational needs.

(2) To be eligible as a child with an autism spectrum disorder, the child must meet all of the following minimum criteria:

(a) The team must have documented evidence that the child demonstrates all of the characteristics listed under subsection (1)(a). Each of these characteristics must be:

(A) Characteristic of an autism spectrum disorder;

(B) Inconsistent or discrepant with the child's development in other areas; and

(C) Documented over time and/or intensity.

(3) For a child to be eligible for special education services as a child with an autism spectrum disorder, the eligibility team must also determine that:

(a) The child's disability has an adverse impact on the child's educational performance; and

(b) The child needs special education services as a result of the disability.

(4) A child may not be eligible for special education services on the basis of an autism spectrum disorder if the child's primary disability is an emotional disturbance under OAR 581-015-2145. However, a child with autism spectrum disorder as a primary disability may also have an emotional disturbance as a secondary disability.

Stat. Auth.: ORS 343.035(1), 343.045, 343.146, 343.157;

Stats. Implemented: ORS 343.035(1), 343.045, 343.146, 343.157, 34 CFR 300.8, 300.306

Hist.: 1EB 29-1978, f. & ef. 7-20-78; 1EB 18-1983(Temp), f. & ef. 12-20-83; 1EB 7-1986, f. & ef. 2-24-86; EB 25-1991(Temp), f. & cert. ef. 11-29-91; EB 16-1992, f. & cert. ef. 5-13-92; EB 22-1995, f. & cert. ef. 9-15-95; ODE 11-2000, f. 5-3-00, cert. ef. 7-1-00; ODE 8-2001, f. & cert. ef. 1-29-01; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0051(1), ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2135

Communication Disorder

(1) If a child is suspected of having a communication disorder, the following evaluation must be conducted:

(a) Speech-language assessment. A speech and language assessment administered by a speech and language pathologist licensed by a State Board of Examiners for Speech-Language Pathology and Audiology or the Teacher Standards and Practices Commission, including:

(A) When evaluating syntax, morphology, semantics or pragmatics, a representative language sample and comprehensive standardized tests that assess expression and comprehension;

(B) When a voice disorder is suspected, a voice assessment scale; and

(C) When a fluency disorder is suspected, an observation in at least two settings;

(b) Medical or health assessment statement. For a child suspected of having a voice disorder, a medical statement by an otolaryngologist licensed by a State Board of Medical Examiners. For other than a voice disorder, if a medical or health diagnosis is needed, a medical statement or health assessment statement describing relevant medical issues;

(c) Hearing evaluation or screening. An evaluation or screening of the child's hearing acuity and, if needed, a measure of middle ear functioning;

(d) Other.

(A) An evaluation of the child's oral mechanism, if needed;

(B) Any additional assessments necessary to determine the impact of the suspected disability:

(i) On the child's educational performance for a school-age child; or

(ii) On the child's developmental progress for a preschool child; and

(C) Any additional evaluations or assessments necessary to identify the child's educational needs.

(2) To be eligible as a child with a specific communication disorder, the child must meet the following minimum criteria:

(a) Voice disorder:

(A) The child demonstrates chronic vocal characteristics that deviate in at least one of the areas of pitch, quality, intensity or resonance;

(B) The child's voice disorder impairs communication or intelligibility; and

(C) The child's voice disorder is rated as moderate to severe on a voice assessment scale.

(b) Fluency disorder:

(A) The child demonstrates an interruption in the rhythm or rate of speech that is characterized by hesitations, repetitions, or prolongations of sounds, syllables, words or phrases;

(B) The child has a fluency disorder that interferes with communication and calls attention to itself across two or more settings; and

(C) The child demonstrates moderate to severe vocal dysfluencies or the child evidences associated secondary behaviors, such as struggling or avoidance as measured by a standardized measure.

(c) Phonological or articulation disorder:

(A) The child's phonology or articulation is rated significantly discrepant as measured by a standardized test; and

(B) The disorder is substantiated by a language sample or other evaluation(s).

(d) Syntax, morphology, pragmatic or semantic disorder:

(A) The child's language in the area of syntax, morphology, semantics or pragmatics is significantly discrepant as measured by standardized test(s) or other evaluation data; and

(B) The disorder is substantiated by a language sample or other evaluation(s).

(C) For a child to be eligible with a syntax, morphology, pragmatic or semantic disorder, the disorder is not the result of another disability.

(3) For a child to be eligible for special education services as a child with a communication disorder, the eligibility team must also determine that:

(a) The child's disability has an adverse impact on the child's educational performance; and

(b) The child needs special education services as a result of the disability.

Stat. Auth.: ORS 343.035(1), 343.045, 343.146, 343.157;

Stats. Implemented: ORS 343.035(1), 343.045, 343.146, 343.157, 34 CFR 300.8, 300.306

Hist.: 1EB 29-1978, f. & ef. 7-20-78; 1EB 18-1983(Temp), f. & ef. 12-20-83; 1EB 7-1986, f. & ef. 2-24-86; EB 25-1991(Temp), f. & cert. ef. 11-29-91; EB 16-1992, f. & cert. ef. 5-13-92; EB 22-1995, f. & cert. ef. 9-15-95; ODE 11-2000, f. 5-3-00, cert. ef. 7-1-00; ODE 8-2001, f. & cert. ef. 1-29-01; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0051(2), ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2140

Deafblindness

(1) If a child is suspected of having deafblindness, the following evaluation must be conducted:

(a) The minimum evaluation procedures for hearing impairment and vision impairment under OAR 581-015-2150 and 581-015-2180, respectively;

(b) If the child demonstrates inconsistent or inconclusive responses in an assessment of one sensory area, a functional assessment must be administered by a state licensed educator of the visually impaired, a state licensed educator of the hearing impaired or an audiologist licensed by the State Board of Examiners for Speech-Language Pathology and Audiology.

(2) To be eligible as a child with deafblindness, the child must meet one or more of the following minimum criteria:

(a) The child meets the minimum criteria for both vision impairment and hearing impairment under OAR 581-015-2150 and 581-015-2180, respectively; or

(b) The child meets the minimum criteria for either vision impairment or hearing impairment and demonstrates inconsistent or inconclusive responses in an assessment of the other sensory area; or

(c) The child meets the minimum criteria for either vision impairment or hearing impairment and has a degenerative disease or pathology that affects the acuity of the other sensory area.

(3) For a child to be eligible for special education services as a child having deafblindness, the eligibility team must also determine that:

(a) The child's disability has an adverse impact on the child's educational performance; and

(b) The child needs special education services as a result of the disability.

Stat. Auth.: ORS 343.035(1), 343.045, 343.146, 343.157;

Stats. Implemented: ORS 343.035(1), 343.045, 343.146, 343.157, 34 CFR 300.8, 300.306

Hist.: 1EB 29-1978, f. & ef. 7-20-78; 1EB 18-1983(Temp), f. & ef. 12-20-83; 1EB 7-1986, f. & ef. 2-24-86; EB 25-1991(Temp), f. & cert. ef. 11-29-91; EB 16-1992, f. & cert. ef. 5-13-92; EB 22-1995, f. & cert. ef. 9-15-95; ODE 11-2000, f. 5-3-00, cert. ef. 7-1-00; ODE 8-2001, f. & cert. ef. 1-29-01; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0051(3), ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2145

Emotional Disturbance Eligibility Criteria

(1) If a child is suspected of having an emotional disturbance, the following evaluation must be conducted:

(a) Social-emotional evaluation. An evaluation of the child's emotional and behavioral status, including a developmental or social history, when appropriate.

(b) Medical or health assessment statement. A medical statement or a health assessment statement indicating whether there are any physical factors that may be affecting the child's educational performance;

(c) Behavior rating scales. The completion of at least two behavior-rating scales, at least one of which is a standardized behavior measurement instrument;

(d) Observation. An observation in the classroom and in at least one other setting by someone other than the child's regular teacher;

(e) Other:

(A) Any additional assessments necessary to determine the impact of the suspected disability;

(i) On the child's educational performance for a school-age child; or

(ii) On the child's developmental progress for a preschool child; and

(B) Any additional evaluations or assessments necessary to identify the child's educational needs.

(2)(a) To be eligible as a child with an emotional disturbance, the child must meet the following minimum criteria:

(b) The child exhibits one or more of the following characteristics over a long period of time and to a marked degree:

(A) An inability to learn that cannot be explained by intellectual, sensory, or health factors;

(B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(C) Inappropriate types of behavior or feelings under normal circumstances;

(D) A general pervasive mood of unhappiness or depression; or

(E) A tendency to develop physical symptoms, or fears associated with personal, or school problems.

(3) For a child to be eligible for special education services as a child with an emotional disturbance, the eligibility team must also determine that:

(a) The child's disability has an adverse impact on the child's educational performance; and

(b) The child needs special education services as a result of the disability;

(4) A child who is socially maladjusted may not be identified as having an emotional disturbance unless the child also meets the minimum criteria under this rule.

Stat. Auth.: ORS 343.035(1), 343.045, 343.146 & 343.157

Stats. Implemented: ORS 343.035(1), 343.045, 343.146, 343.157, 34 CFR 300.8 & 34 CFR 300.306

Hist.: 1EB 29-1978, f. & ef. 7-20-78; 1EB 18-1983(Temp), f. & ef. 12-20-83; 1EB 7-1986, f. & ef. 2-24-86; EB 25-1991(Temp), f. & cert. ef. 11-29-91; EB 16-1992, f. & cert. ef. 5-13-92; EB 22-1995, f. & cert. ef. 9-15-95; ODE 11-2000, f. 5-3-00, cert. ef. 7-1-00; ODE 8-2001, f. & cert. ef. 1-29-01; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0051(4), ODE 10-2007, f. & cert. ef. 4-25-07; ODE 13-2011, f. & cert. ef. 10-31-11

581-015-2150

Hearing Impairment

(1) If a child is suspected of having a hearing impairment, the following evaluation must be conducted:

(a) Audiology assessment. An audiological assessment by an audiologist licensed by the State Board of Examiners for Speech-Language Pathology and Audiology;

(b) Medical or health assessment statement. A medical statement or a health assessment statement indicating that the hearing loss is sensory-neural or conductive, if the conductive loss has been determined to be untreatable by a physician;

(c) Other:

(A) Any additional assessments necessary to determine the impact of the suspected disability;

(i) On the child's educational performance for a school-age child; or

(ii) On the child's developmental progress for a preschool child; and

(B) Any additional evaluations or assessments necessary to identify the child's educational needs.

(2) To be eligible as a child with a hearing impairment, the child must meet one of the following minimum criteria:

(a) The child has a pure tone average loss of 25 dBHL or greater in the better ear for frequencies of 500 Hz, 1000 Hz, and 2000 Hz, or a pure tone average loss of 35 dBHL or greater in the better ear for frequencies of 3000 Hz, 4000 Hz, and 6000 Hz; or

(b) The child has a unilateral hearing impairment with a pure tone average loss of 50 dBHL or greater in the affected ear for the frequencies 500 Hz to 4000 Hz; and

(c) The loss is either sensorineural or conductive if the conductive loss has been determined to be currently untreatable by a physician.

(3) For a child to be eligible for special education services as a child with a hearing impairment, the eligibility team must also determine that:

(a) The child's disability has an adverse impact on the child's educational performance; and

(b) The child needs special education services as a result of the disability.

Stat. Auth.: ORS 343.035(1), 343.045, 343.146, 343.157;

Stats. Implemented: ORS 343.035(1), 343.045, 343.146, 343.157, 34 CFR 300.8, 300.306

Hist.: 1EB 29-1978, f. & ef. 7-20-78; 1EB 18-1983(Temp), f. & ef. 12-20-83; 1EB 7-1986, f. & ef. 2-24-86; EB 25-1991(Temp), f. & cert. ef. 11-29-91; EB 16-1992, f. & cert. ef. 5-13-92; EB 22-1995, f. & cert. ef. 9-15-95; ODE 11-2000, f. 5-3-00, cert. ef. 7-1-00; ODE 8-2001, f. & cert. ef. 1-29-01; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0051(5), ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2155

Intellectual disability

(1) If a child is suspected of having an intellectual disability, the following evaluation must be conducted:

(a) Intelligence test. An individually administered standardized intelligence test meeting the reliability and validity standards of the American Psychological Association and administered by a licensed school psychologist, a psychologist licensed by the State Board of Psychological Examiners, or other individual assigned by a school district who has the training and experience to administer and interpret individually administered intelligence tests;

(b) Adaptive behavior scale. The administration of a valid adaptive behavior scale;

(c) Medical or health assessment statement. A medical statement or a health assessment statement indicating whether there are any sensory or physical factors that may be affecting the child's educational performance;

(d) Developmental history. A developmental history of the child;

(e) Other:

(A) Any additional assessments necessary to determine the impact of the suspected disability:

(i) On the child's educational performance for a school-age child; or

(ii) On the child's developmental progress for a preschool child; and

(B) Any additional evaluations or assessments necessary to identify the child's educational needs.

(2) To be eligible as a child with an intellectual disability, the child must meet all of the following minimum criteria:

(a) The child's intelligence test score is 2 or more standard deviations below the mean;

(b) The child has deficits in adaptive behavior coexistent with the child's impairment in intellectual functioning;

(c) The child's developmental level or educational achievement is significantly below age or grade norms; and

(d) The child's developmental or educational problems are not primarily the result of sensory disabilities or other physical factors.

(3) For a child to be eligible for special education services as a child with an intellectual disability, the eligibility team must also determine that:

(a) The child's disability has an adverse impact on the child's educational performance; and

(b) The child needs special education services as a result of the disability.

Stat. Auth.: ORS 343.035(1), 343.045, 343.146, 343.157;

Stats. Implemented: ORS 343.035(1), 343.045, 343.146, 343.157, 34 CFR 300.8, 300.306

Hist.: 1EB 29-1978, f. & ef. 7-20-78; 1EB 18-1983(Temp), f. & ef. 12-20-83; 1EB 7-1986, f. & ef. 2-24-86; EB 25-1991(Temp), f. & cert. ef. 11-29-91; EB 16-1992, f. & cert. ef. 5-13-92; EB 22-1995, f. & cert. ef. 9-15-95; ODE 11-2000, f. 5-3-00, cert. ef. 7-1-00; ODE 8-2001, f. & cert. ef. 1-29-01; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0051(6), ODE 10-2007, f. & cert. ef. 4-25-07; ODE 12-2011, f. & cert. ef. 10-31-11

581-015-2160

Orthopedic Impairment

(1) If a child is suspected of having an orthopedic impairment, the following evaluation must be conducted:

(a) Medical or health assessment statement. A medical statement or a health assessment statement indicating a diagnosis of an orthopedic or neuromotor impairment or a description of the motor impairment;

(b) Motor assessment. A standardized motor assessment, including the areas of fine motor, gross motor and self-help, when appropriate, by a specialist knowledgeable about orthopedic or neuromotor development;

(c) Other:

(A) Any additional assessments necessary to determine the impact of the suspected disability:

(i) On the child's educational performance for a school-age child; or

(ii) On the child's developmental progress for a preschool child; and

(d) Any additional evaluations or assessments necessary to identify the child's educational needs.

(2) To be eligible as a child with an orthopedic impairment, the child must meet all of the following minimum criteria:

(a) The child has a motor impairment that results in deficits in the quality, speed or accuracy of movement. These deficits must be documented by a score of two or more standard deviations below the mean in fine motor skills, gross motor skills, or self-help skills, or functional deficits in at least two of these three motor areas; and

(b) The child's condition is permanent or is expected to last for more than 60 calendar days.

(3) For a child to be eligible for special education services as a child with an orthopedic impairment, the eligibility team must also determine that:

(a) The child's disability has an adverse impact on the child's educational performance; and

(b) The child needs special education services as a result of the disability.

Stat. Auth.: ORS 343.035(1), 343.045, 343.146, 343.157;

Stats. Implemented: ORS 343.035(1), 343.045, 343.146, 343.157, 34 CFR 300.8, 300.306

Hist.: 1EB 29-1978, f. & ef. 7-20-78; 1EB 18-1983(Temp), f. & ef. 12-20-83; 1EB 7-1986, f. & ef. 2-24-86; EB 25-1991(Temp), f. & cert. ef. 11-29-91; EB 16-1992, f. & cert. ef. 5-13-92; EB 22-1995, f. & cert. ef. 9-15-95; ODE 11-2000, f. 5-3-00, cert. ef. 7-1-00; ODE 8-2001, f. & cert. ef. 1-29-01; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0051(7), ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2165

Other Health Impairment

(1) If a child is suspected of having an other health impairment, the following evaluation must be conducted:

(a) Medical or health assessment statement. A medical statement or a health assessment statement, indicating a diagnosis of a health impairment or a description of the impairment, and a statement that the child's condition is permanent or is expected to last for more than 60 calendar days;

(b) Other:

(A) Any additional assessments necessary to determine the impact of the suspected disability:

(i) On the child's educational performance for a school-age child; or

(ii) On the child's developmental progress for a preschool child; and

(B) Any additional evaluations or assessments necessary to identify the child's educational needs.

(2) To be eligible as a child with an other health impairment, the child must meet all of the minimum criteria:

(a) The child exhibits limited strength, vitality or alertness, including a heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment;

(b) The child's limited strength, vitality or alertness is due to a chronic or acute health problem; and

(c) The child's condition is permanent or expected to last for more than 60 calendar days.

(3) For a child to be eligible for special education services as a child with an other health impairment, the eligibility team must also determine that:

(a) The child's disability has an adverse impact on the child's educational performance; and

(b) The child needs special education services as a result of the disability.

Stat. Auth.: ORS 343.035(1), 343.045, 343.146, 343.157;

Stats. Implemented: ORS 343.035(1), 343.045, 343.146, 343.157, 34 CFR 300.8, 300.306

Hist.: 1EB 29-1978, f. & ef. 7-20-78; 1EB 18-1983(Temp), f. & ef. 12-20-83; 1EB 7-1986, f. & ef. 2-24-86; EB 25-1991(Temp), f. & cert. ef. 11-29-91; EB 16-1992, f. & cert. ef. 5-13-92; EB 22-1995, f. & cert. ef. 9-15-95; ODE 11-2000, f. 5-3-00, cert. ef. 7-1-00; ODE 8-2001, f. & cert. ef. 1-29-01; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0051(8), ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2170

Specific Learning Disability

(1) If a child is suspected of having a specific learning disability, the following evaluation must be conducted:

(a) Academic assessment. An assessment of the child's academic achievement toward Oregon grade-level standards;

(b) Review. A review of cumulative records, previous IEPs or IFSPs and teacher collected work samples;

(c) Observation. An observation of the child in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavior in the areas of difficulty, which must consist of:

(A) Information from an observation by a qualified professional in routine classroom instruction and monitoring of the child's performance before the child was referred for an evaluation; or

(B) An observation conducted by a qualified professional (who is a member of the evaluation team) of the child's academic

performance in a regular classroom after the child has been referred for an evaluation and parent consent obtained; or

(C) For a child who is less than school age or out of school, an observation in an age-appropriate environment.

(d) Progress monitoring data, including:

(A) Data that demonstrate that before, or as part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and

(B) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress that is directly linked to instruction.

(e) For a student evaluated using a response to intervention model as part of a comprehensive evaluation process to determine if the child has a specific learning disability, the evaluation must include documentation of:

(A) The type, intensity, and duration of scientific, research-based instructional intervention(s) provided in accordance with the district's response to intervention model;

(B) The student's rate of progress during the instructional intervention(s);

(C) A comparison of the student's rate of progress to expected rates of progress.

(D) Progress monitoring on a schedule that:

(i) Allows a comparison of the student's progress to the performance of peers;

(ii) Is appropriate to the student's age and grade placement;

(iii) Is appropriate to the content monitored; and

(iv) Allows for interpretation of the effectiveness of intervention.

(f) For a student evaluated using a model that is based on the student's strengths and weaknesses, the evaluation must include an assessment of the student's strengths and weaknesses in classroom performance and academic achievement, relative to age, Oregon grade-level standards, or intellectual development.

(g) Other:

(A) If needed, a developmental history;

(B) If needed, an assessment of cognition, fine motor, perceptual motor, communication, social or emotional, and perception or memory if the child exhibits impairment in one or more these areas;

(C) If needed, a medical statement or health assessment indicating whether there are any physical factors that may be affecting the child's educational performance; and

(D) Any other assessments required to determine the impact of the suspected disability:

(i) On the child's educational performance for a school-age child; or

(ii) On the child's developmental progress for a preschool child.

(2) For consideration of eligibility in the area of specific learning disabilities, the eligibility team must include:

(a) A group of qualified professionals and the parent;

(b) The child's regular classroom teacher or, if the child does not have a regular classroom teacher, a regular classroom teacher qualified to teach a child of his or her age, or, for a child of less than school age, a preschool teacher; and

(c) A person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or other qualified professional.

(3) To be eligible as a child with a specific learning disability, the child must meet the following minimum criteria:

(a) The child does not achieve adequately for the child's age or to meet Oregon grade-level standards in one or more of the following areas when provided with learning experiences and instruction appropriate for the child's age or Oregon grade-level standards:

(A) Basic reading skills;

(B) Reading fluency skills;

(C) Reading comprehension;

(D) Mathematics calculation;

(E) Mathematics problem-solving;

(F) Written Expression;

(G) Oral expression; or

(H) Listening comprehension.

(b) For a student evaluated using a response to intervention model, in relation to one or more of the areas in subsection (3)(a), the student does not make sufficient progress to meet age or Oregon grade-level standards based on the student's response to scientific, research-based intervention.

(c) For a student evaluated using a model that is based on the student's strengths and weaknesses, in relation to one or more of the areas in subsection (3)(a), the student exhibits a pattern of strengths and weaknesses in classroom performance, academic achievement, or both, relative to age, Oregon grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability.

(d) The child's rate of progress in subsection (3)(b) or pattern of strengths and weaknesses in subsection (3)(c) is not primarily the result of:

(A) A visual, hearing, or motor impairment; intellectual disability or emotional disturbance;

(B) Cultural factors;

(C) Environmental or economic disadvantage; or

(D) Limited English proficiency.

(4) For a child to be eligible for special education services as a child with a specific learning disability, the eligibility team must also determine that:

(a) The child's disability has an adverse impact on the child's educational performance; and

(b) The child needs special education services as a result of the disability.

(5) The eligibility team must prepare an evaluation report and written statement of eligibility documenting its findings, including:

(a) The evaluation data considered in determining the child's eligibility;

(b) A determination of whether the child meets the minimum criteria for a specific learning disability;

(c) The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;

(d) The educationally relevant medical findings, if any;

(e) If the child participated in a response to intervention process, documentation that the parents were notified in a timely manner about: the state's policies regarding the amount and nature of student performance data that would be collected, and the general education services that would be provided, as part of the response to intervention process; strategies for increasing the child's rate of learning; and the parent's right to request an evaluation.

(f) The determination of the team concerning the effects of a visual, hearing, or motor disability; intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and

(g) A determination of whether the primary basis for the suspected disability is:

(A) A lack of appropriate instruction in reading or math; or

(B) Limited English proficiency;

(h) A determination of whether the child's disability has an adverse impact on the child's educational performance;

(i) A determination of whether, as a result of the disability, the child needs special education services; and

(j) The signature of each member of the team indicating agreement or disagreement with the eligibility determination.

Stat. Auth.: ORS 343.035(1), 343.045, 343.146, 343.157;

Stats. Implemented: ORS 343.035(1), 343.045, 343.146, 343.157, 34 CFR 300.8, 300.306

Hist.: 1EB 29-1978, f. & ef. 7-20-78; 1EB 18-1983(Temp), f. & ef. 12-20-83; 1EB 7-1986, f. & ef. 2-24-86; EB 25-1991(Temp), f. & cert. ef. 11-29-91; EB 16-1992, f. & cert. ef. 5-13-92; EB 22-1995, f. & cert. ef. 9-15-95; ODE 11-2000, f. 5-3-00, cert. ef. 7-1-00; ODE 8-2001, f. & cert. ef. 1-29-01; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0051(9), ODE 10-2007, f. & cert. ef. 4-25-07; ODE 12-2011, f. & cert. ef. 10-31-11

581-015-2175

Traumatic Brain Injury

(1) If a child is suspected of having a traumatic brain injury, the following evaluation must be conducted:

(a) Medical or health assessment statement. A medical statement or a health assessment statement indicating that an event may have resulted in a traumatic brain injury as defined in subsection (2)(A);

(b) Psychological assessment. A comprehensive psychological assessment using a battery of instruments intended to identify deficits associated with a traumatic brain injury administered by a licensed school psychologist, a psychologist licensed by a State Board of Psychological Examiners, or other individuals who have the training and experience to administer and interpret the tests within the battery;

(c) Other.

(A) Other assessments including, but not limited to, motor assessments if the child exhibits motor impairments; communication assessments if the child exhibits communication disorders; and psychosocial assessments if the child exhibits changed behavior. These assessments must be completed by educators knowledgeable in the specific area being assessed;

(B) Other information relating to the child's suspected disability, including pre-injury performance and a current measure of adaptive ability;

(C) An observation in the classroom and in at least one other setting;

(D) Any additional assessments necessary to determine the impact of the suspected disability:

(i) On the child's educational performance for a school-age child; or

(ii) On the child's developmental progress for a preschool child; and

(E) Any additional evaluations or assessments necessary to identify the child's educational needs.

(2) To be eligible as a child with a traumatic brain injury, the child must meet all of the following minimum criteria:

(a) The child has an acquired injury to the brain caused by an external physical force;

(b) The child's condition is permanent or expected to last for more than 60 calendar days;

(c) The child's injury results in an impairment of one or more of the following areas:

(A) Communication;

(B) Behavior;

(C) Cognition, memory, attention, abstract thinking, judgment, problem-solving, reasoning, and/or information processing;

(D) Sensory, perceptual, motor and/or physical abilities.

(3) For a child to be eligible for special education services as a child with a traumatic brain injury, the eligibility team must also determine that:

(a) The child's disability has an adverse impact on the child's educational performance; and

(b) The child needs special education services as a result of the disability.

(4) Students with brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma, are not eligible under the category of traumatic brain injury but may be eligible under a different category under this rule.

Stat. Auth.: ORS 343.035(1), 343.045, 343.146, 343.157;

Stats. Implemented: ORS 343.035(1), 343.045, 343.146, 343.157, 34 CFR 300.8, 300.306

Hist.: 1EB 29-1978, f. & ef. 7-20-78; 1EB 18-1983(Temp), f. & ef. 12-20-83; 1EB 7-1986, f. & ef. 2-24-86; EB 25-1991(Temp), f. & cert. ef. 11-29-91; EB 16-1992, f. & cert. ef. 5-13-92; EB 22-1995, f. & cert. ef. 9-15-95; ODE 11-2000, f. 5-3-00, cert. ef. 7-1-00; ODE 8-2001, f. & cert. ef. 1-29-01; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0051(10), ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2180

Vision Impairment

(1) If a child is suspected of having a vision impairment, the following evaluation must be conducted:

(a) Medical statement. A medical statement by an ophthalmologist or optometrist licensed by a State Board of Examiners indicating whether the child has a vision impairment;

(b) Vision assessment. An assessment by a teacher of the visually impaired to identify the child's educational and compensatory needs, including a functional assessment of the child's residual visual acuity or field of vision.

(c) Other: Any additional assessments necessary to determine the impact of the suspected disability:

(A) On the child's educational performance for a school-age child; or

(B) On the child's developmental progress for a preschool child.

(2) To be eligible as a child with a vision impairment, the child must meet one or more of the following minimum criteria:

(a) The child's residual acuity is 20/70 or less in the better eye with correction;

(b) The child's visual field is restricted to 20 degrees or less in the better eye;

(c) The child has an eye pathology or a progressive eye disease which in the opinion of the ophthalmologist is expected to reduce either residual acuity or visual field according to the criteria stated in subsections (2)(a) or (b); or

(d) The assessment results of a licensed ophthalmologist or optometrist are inconclusive, and the child demonstrates inadequate use of residual vision.

(3) For a child to be eligible for special education services as a child with vision impairment, the eligibility team must also determine that:

(a) The child's disability has an adverse impact on the child's educational performance; and

(b) The child needs special education services as a result of the disability.

Stat. Auth.: ORS 343.035(1), 343.045, 343.146, 343.157;

Stats. Implemented: ORS 343.035(1), 343.045, 343.146, 343.157, 34 CFR 300.8, 300.306

Hist.: 1EB 29-1978, f. & ef. 7-20-78; 1EB 18-1983(Temp), f. & ef. 12-20-83; 1EB 7-1986, f. & ef. 2-24-86; EB 25-1991(Temp), f. & cert. ef. 11-29-91; EB 16-1992, f. & cert. ef. 5-13-92; EB 22-1995, f. & cert. ef. 9-15-95; ODE 11-2000, f. 5-3-00, cert. ef. 7-1-00; ODE 8-2001, f. & cert. ef. 1-29-01; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0051(11), ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2190

Parent Participation – General

(1) School districts must provide one or both parents with an opportunity to participate in meetings with respect to the identification, evaluation, IEP and educational placement of the child, and the provision of a free appropriate public education to the child.

(2) Meeting Notice:

(a) School districts must provide parents with a written notice of the meeting sufficiently in advance to ensure that one or both parents will have an opportunity to attend.

(b) The written notice must:

(A) State the purpose, time and place of the meeting and who will attend;

(B) Inform the parent that they may invite other individuals whom they believe have knowledge or special expertise regarding the child;

(C) Inform the parent that the team may proceed with the meeting even if the parent is not in attendance; and

(D) Inform the parent of whom to contact before the meeting to provide information if they are unable to attend.

(3) The school district must take whatever action is necessary to ensure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

(4) A meeting does not include informal or unscheduled conversations involving school district personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision if those issues are not addressed in the child's IEP. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or

response to a parent proposal that will be discussed at a later meeting.

(5) Conducting a meeting without a parent in attendance: A

meeting may be conducted without a parent in attendance if the

school district has given the parent notice under subsection (2), or,

for IEP or placement meetings, in accordance with OAR 581-015-

2195.

(6) Transfer of rights:

(a) The right to parent participation transfers to an adult

student under OAR 581-015-2325.

(b) After the transfer of rights to an adult student under OAR

581-015-2325, the school district must provide written notice of

meetings to the adult student and parent, if the parent can be rea-

sonably located. A parent receiving notice of a meeting under this

subsection is not entitled to attend the meeting unless invited by the

adult student or by the school district.

Stat. Auth.: ORS 343.041, 343.055, 343.155

Stats. Implemented: ORS 343.155, 34 CFR 300.500, 300.327, 300.501(b)

Hist.: ODE 17-1999, f. & cert. ef. 9-24-99; ODE 2-2003, f. & cert. ef. 3-10-03;

Renumbered from 581-015-0063, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2195

Additional Parent Participation Requirements for IEP and Placement Meetings

(1) Parent Participation: School districts must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP or placement meeting or are afforded the opportunity to participate, including:

(a) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and

(b) Scheduling the meeting at a mutually agreed on time and place.

(2) Other Methods to Ensure Parent Participation: If neither parent can attend, the school district must use other methods to ensure parent participation, including, but not limited to, individual or conference phone calls or home visits.

(3) Conducting an IEP/Placement Meeting without a Parent in Attendance: An IEP or placement meeting may be conducted without a parent in attendance if the school district is unable to convince the parents that they should attend.

(a) If the school district proceeds with an IEP meeting without a parent, the district must have a record of its attempts to arrange a mutually agreed on time and place such as:

(A) Detailed records of telephone calls made or attempted and the results of those calls;

(B) Copies of correspondence sent to the parents and any responses received; and

(C) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

(b) The Department considers school district attempts to convince parents to attend sufficient if the school district:

(A) Communicates directly with the parent and arranges a mutually agreeable time and place, and sends written notice required under OAR 581-015-2190(2) to confirm this arrangement; or

(B) Sends written notice required under OAR 581-015-2190(2) proposing a time and place for the meeting and states in the notice that the parent may request a different time and place, and confirms that the parent received the notice.

(c) "Sufficient attempts" may all occur before the scheduled IEP or placement meeting, and do not require the scheduling of multiple agreed-upon meetings unless the team believes this would be in the best interest of the child.

(4) Considering Transition: If a purpose of the meeting is to consider postsecondary goals and transition services for a student, the written notice required by OAR 581-015-2190(2) must also:

(a) Indicate this purpose;

(b) Indicate that the school district will invite the student; and

(c) Identify any other agency that will be invited to send a representative in accordance with OAR 581-015-2210(2)(b).

(5) The school district must give the parent a copy of the IEP at no cost to the parent. If the parent does not attend the IEP meeting, the school district must ensure that a copy is provided to the parent.

(6) When conducting IEP team meetings and placement meetings, the parent of a child with a disability and a school district may agree to use alternative means of meeting participation, such as video conferences and conference calls.

Stat. Auth.: ORS 343.041, 343.045, 343.055

Stats. Implemented: ORS 343.045, 343.155, 34 CFR 300.322, 300.500, 300.327, 300.328, 300.501(c)

Hist.: 1EB 269, f. & ef. 12-22-77; EB 9-1993, f. & cert. ef. 3-25-93; EB 11-1995, f. & cert. ef. 5-25-95; ODE 17-1999, f. & cert. ef. 9-24-99; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0067, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2200

Content of IEP

(1) The individualized education program (IEP) must include:

(a) A statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's involvement and progress in the general education curriculum.

(b) A statement of measurable annual goals, including academic and functional goals (and, for children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of short-term objectives) designed to:

(A) Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and

(B) Meet each of the child's other educational needs that result from the child's disability.

(c) A description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;

(d) A statement of the specific special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child:

(A) To advance appropriately toward attaining the annual goals;

(B) To be involved and progress in the general education curriculum and to participate in extracurricular and other nonacademic activities; and

(C) To be educated and participate with other children with disabilities and children without disabilities,

(e) The projected dates for initiation of services and modifications and the anticipated frequency, amount, location and duration of the services and modifications described in subsection (1)(d) of this rule.

(f) An explanation of the extent, if any, to which the child will not participate with children without disabilities in the regular class and activities described in subsection (1)(d) of this rule.

(g) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and district-wide assessments of student achievement that are needed for the child to participate in the assessment:

(A) A child may not be exempt from participation in State or district-wide assessment, including extended and juried assessments, because of a disability, unless the parent has requested an exemption under OAR 581-022-0612.

(B) If the IEP team determines that the child must take the alternate assessment instead of the regular Statewide or a district-wide assessment, a statement of why the child cannot participate in the regular assessment, and why the alternate assessment is appropriate for the child.

(2) For the purposes of transition, the IEP must include:

(a) Beginning not later than the first IEP to be in effect when the child turns 16, or younger, if determined appropriate by the IEP team, and updated annually thereafter:

(A) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills; and

(B) The transition services (including courses of study) needed to assist the child in reaching those goals.

(b) Beginning at least one year before a student reaches age 18, or when the district obtains actual knowledge that within one year the student will marry or become emancipated before age 18, a statement that the district has informed the student that procedural rights will transfer to the student upon age 18, marriage or emancipation, whichever occurs first.

Stat. Auth.: ORS 343.041, 343.045, 343.055 & 343.151

Stats. Implemented: ORS 343.151 & 34 CFR 300.320

Hist.: 1EB 269, f. & ef. 12-22-77; EB 9-1993, f. & cert. ef. 3-25-93; ODE 32-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0068, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 26-2008, f. 10-23-08, cert. ef. 10-24-08; ODE 27-2015, f. & cert. ef. 12-21-15

581-015-2205

IEP Team Considerations and Special Factors

(1) In developing, reviewing and revising the child's IEP, the IEP team must consider:

(a) The strengths of the child;

(b) The concerns of the parents for enhancing the education of their child;

(c) The results of the initial or most recent evaluation of the child; and

(d) The academic, developmental, and functional needs of the child.

(2) In developing, reviewing and revising the child's IEP, the IEP team must consider the following special factors:

(a) The communication needs of the child; and

(b) Whether the child needs assistive technology devices and services.

(3) In developing, reviewing and revising the IEP of children described below, the IEP team must consider the following additional special factors:

(a) For a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies to address that behavior;

(b) For a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;

(c) For a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child; and

(d) For a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communication with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode.

(4) If, in considering these special factors, the IEP team determines that a child needs a particular device or service (including an intervention, accommodation, or other program modification) for the child to receive free appropriate public education, the IEP team must include a statement to that effect in the child's IEP.

(5) Nothing in OAR 581-015-2200 or this rule may be construed to require the IEP team to include information under one component of a child's IEP that is already contained under another component of the child's IEP.

Stat. Auth.: ORS 343.041, 343.045, 343.055, 343.151

Stats. Implemented: ORS 343.051, 34 CFR 300.320, 300.324(a)(1) & (2), (b)(2)

Hist.: ODE 32-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0568, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2210

IEP Team

(1) School districts must ensure that the IEP Team for each child with a disability includes the following participants:

(a) One or both of the child's parents, except as provided in OAR 581-015-2195;

(b) The child where appropriate;

(c) At least one regular education teacher of the child, if the child is or may be participating in the regular education environment, consistent with section (4) of this rule;

(d) At least one special education teacher of the child or, if appropriate, at least one special education provider of the child;

(e) A representative of the school district, who may also be another member of the team, who is:

(A) Qualified to provide, or supervise the provision of, specially designed instruction;

(B) Knowledgeable about the general education curriculum;

(C) Knowledgeable about district resources; and

(D) Authorized to commit district resources and ensure that services set out in the IEP will be provided.

(f) An individual who can interpret the instructional implications of the evaluation results (who may also be another member of the team);

(g) Other individuals, including related services personnel as appropriate, invited by:

(A) The parent, whom the parent determines to have knowledge or special expertise regarding the child; or

(B) The school district, whom the school district determines to have knowledge or special expertise regarding the child; and

(h) Transition services participants, as described in section (2) of this rule.

(2) If a purpose of the meeting will be consideration of the postsecondary goals for the student and the transition services needed to assist the student in reaching those goals:

(a) The school district must invite the student. If the student does not attend the meeting, the school district must take other steps to ensure that the student's preferences and interests are considered.

(b) To the extent appropriate, with consent of the parents or adult student, the school district must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

(3) IEP team attendance:

(a) A member of the IEP team described in subsection (1)(c) through (1)(f) is not required to attend an IEP meeting, in whole or in part, if the parent of a child with a disability and the school district agree in writing that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting.

(b) A member of the IEP team described in subsection (1)(c) through (1)(f) may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of curriculum or related services, if:

(A) The parent and school district consent in writing to the excusal; and

(B) The member submits, in writing to the parent and the IEP team, input into the development of the IEP before the meeting.

(4) The regular education teacher of the child must participate as a member of the IEP team, to the extent appropriate, in the development, review, and revision of the child's IEP, including assisting in the determination of:

(a) Supplementary aids and services, program modifications and supports for school personnel that will be provided for the child; and

(b) Appropriate positive behavioral interventions and supports, and other strategies for the child.

Stat. Auth.: ORS 343.041, 343.045, 343.055, 343.151

Stats. Implemented: ORS 343.151, 34 CFR 300.344, 300.321, 300.324(a)(3) & (b)(3)

Hist.: 1EB 269, f. & ef. 12-22-77; EB 9-1993, f. & cert. ef. 3-25-93; ODE 32-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0066, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2215

Oregon Standard IEP

(1) Each school district must use the Oregon Standard IEP form in the development, review and revision of all IEPs, unless an alternate form is approved under subsection (4).

(2) A school district may use an alternate form in the development, review and revision of IEPs if the Department approves the alternate form.

(3) Criteria for approval. The criteria for approval of alternate forms includes, but is not limited to:

(a) Whether the alternate form meets the requirements for the contents of an IEP under OARs 581-015-2200, 581-015-2205, 581-015-2330, and 581-015-2065; and

(b) Whether use of the alternate form will reduce unnecessary or confusing paperwork.

(4) Approval process.

(a) Within 10 days of the established date of submission of the alternate form for approval, the Department will decide:

(A) Whether the alternate form is approved or disapproved; and

(B) Any conditions that apply to the use of the alternate form.

(b) A school district may ask for a reconsideration of the decision within 30 days of receiving the Department's decision in subsection (3). The Department will issue a written response to the district of the reconsideration within 30 days of receiving the request.

(c) If a school district changes or modifies the approved alternate form, the district must submit the form for approval before its use.

(d) The decisions of the Department under this rule are final.

Stat. Auth.: ORS 343.041, 343.045, 343.055, 343.151

Stats. Implemented: ORS 343.151

Hist.: ODE 17-2000, f. & cert. ef. 5-23-00; Renumbered from 581-015-0703, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2220

When IEPs Must Be In Effect

(1) General:

(a) At the beginning of each school year, a school district must have in effect an IEP for each child with a disability within the district's jurisdiction.

(b) School districts must provide special education and related services to a child with a disability in accordance with an IEP.

(2) Initial IEPs:

(a) A school district must conduct a meeting to develop an initial IEP within 30 calendar days of a determination that the child needs special education.

(b) As soon as possible following development of the IEP, special education and related services must be made available to the child in accordance with the child's IEP.

(3) Accessibility of IEPs. Each school district must:

(a) Ensure that the IEP is accessible to each regular education teacher, special education teacher, related service provider and other service provider who is responsible for its implementation; and

(b) Inform each teacher and provider described in (3)(a) of his or her specific responsibilities for implementing the child's IEP and the specific accommodations, modifications and supports that must be provided for or on behalf of the child in accordance with the IEP.

Stat. Auth.: ORS 343.041, 343.045, 343.055;

Stats. Implemented: ORS 343.151, 34 CFR 300.323, 300.324

Hist.: 1EB 269, f. & ef. 12-22-77; EB 11-1995, f. & cert. ef. 5-25-95; ODE 32-1999, f. 12-13-99, cert. ef. 12-14-99; Renumbered from 581-015-0064, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2225

Review and Revision of IEPs

(1) Annual review: Each school district must ensure that the IEP Team reviews the child's IEP periodically, but at least once every 365 days, to:

(a) Determine whether the annual goals for the child are being achieved; and

(b) Revise the IEP, as appropriate, to address:

(A) Any lack of expected progress toward the annual goals described in OAR 581-015-2200 and in the general education curriculum, if appropriate;

(B) The results of any reevaluation conducted under OAR 581-015-2105;

(C) Information about the child provided to, or by, the parents;

(D) The child's anticipated needs; or

(E) Other matters.

(2) Agreement to amend or modify IEP

(a) In making changes to a child's IEP between annual IEP Team meetings, the parent of a child with a disability and the school district may agree not to hold an IEP Team meeting to make these changes, and instead may develop a written document to amend or modify the child's current IEP.

(b) If changes are made to the child's IEP in accordance with subsection (1), the district must ensure that the child's IEP team is informed of these changes.

(3) Amendments to IEP

(a) Changes to the IEP may be made either by the entire IEP team at an IEP team meeting, or as provided in subsection (2) by amending the IEP rather than by redrafting the entire IEP.

(b) Upon request, the parent must be provided with a revised copy of the IEP with the amendments incorporated.

Stat. Auth.: ORS 343.041, 343.045, 343.055, 343.151

Stats. Implemented: ORS 343.151, 34 CFR 300.324(a)(4), (a)(5), (a)(6), (b)(1)

Hist.: ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2230

Transfer Students

(1) In state: If a child with a disability (who had an IEP that was in effect in a previous school district in Oregon) transfers to a new district in Oregon, and enrolls in a new school within the same school year, the new school district (in consultation with the child's parents) must provide a free appropriate public education to the child (including services comparable to those described in the child's IEP from the previous district), until the new district either:

(a) Adopts the child's IEP from the previous school district; or

(b) Develops, adopts and implements a new IEP for the child.

(2) Out of state: If a child with a disability (who had an IEP that was in effect in a previous school district in another state) transfers to a new district in Oregon, and enrolls in a new school within the same school year, the new school district (in consultation with the child's parents) must provide a free appropriate public education to the child (including services comparable to those described in the child's IEP from the previous district), until the new district:

(a) Conducts an initial evaluation (if determined necessary by the new district); and

(b) Develops, adopts and implements a new IEP, if appropriate, that meets applicable requirements.

Stat. Auth.: ORS 343.041, 343.045, 343.055;

Stats. Implemented: ORS 343.045, 343.155, 34 CFR 300.323

Hist.: ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2235

School District and Participating Agency Responsibilities for Transition Services

(1) If a participating agency, other than the school district, fails to provide agreed-upon transition services described in the IEP of a student with a disability, the school district must, as soon as possible, initiate an IEP meeting to identify alternative strategies to meet the transition objectives for the student set out in the IEP and, if appropriate, to revise the student's IEP.

(2) Nothing in this part relieves any participating agency, including a state vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

Stat. Auth.: ORS 343.045, 343.055

Stats. Implemented: ORS 343.045, 343.155, 343.195, 34 CFR 300.324(c)

Hist.: EB 9-1993, f. & cert. ef. 3-25-93; ODE 32-1999, f. 12-13-99, cert. ef. 12-14-99; Renumbered from 581-015-0070, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2240

Requirement for Least Restrictive Environment

School districts must ensure that:

(1) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who do not have a disability and

(2) Special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Stat. Auth.: ORS 343.041, 343.045 & 343.055

Stats. Implemented: ORS 343.045, 343.155 & 34 CFR 300.114

Hist.: 1EB 269, f. & ef. 12-22-77; EB 11-1995, f. & cert. ef. 5-25-95; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0059, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 26-2008, f. 10-23-08, cert. ef. 10-24-08

581-015-2245

Alternative Placements and Supplementary Aids and Services

School districts must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. The continuum must:

(1) Include as alternative placements, instruction in regular classes, special classes, special schools, home instruction and instruction in hospitals and institutions;

(2) Make provision for supplementary aids and services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement; and

(3) Not include sheltered workshops as defined in OAR 581-015-2000(33) and 407-025-0010(16)

Stat. Auth.: ORS 343.041, 343.045 & 343.055.

Stats. Implemented: ORS 343.045 & 343.155, 34 CFR 300.115

Hist.: 1EB 269, f. & ef. 12-22-77; EB 11-1995, f. & cert. ef. 5-25-95; ODE 31-1999, f. 12-13-99, cert. ef. 12-14-99; Renumbered from 581-015-0060, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 29-2013, f. & cert. ef. 12-18-13; ODE 41-2014(Temp), f. & cert. ef. 9-8-14 thru 3-7-15; ODE 47-2014, f. & cert. ef. 12-17-14

581-015-2250

Placement of the Child

School districts must ensure that:

(1) The educational placement of a child with a disability:

(a) Is determined by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options;

(b) Is made in conformity with the Least Restrictive Environment (LRE) provisions of OAR 581-015-2240 to 581-015-2255.

(c) Is based on the child's current IEP;

(d) Is determined at least once every 365 days; and

(e) Is as close as possible to the child's home;

(2) The alternative placements under OAR 581-015-2245 are available to the extent necessary to implement the IEP for each child with a disability;

(3) Unless the child's IEP requires some other arrangement, the child is educated in the school that he or she would attend if not disabled;

(4) In selecting the least restrictive environment, consideration is given to any potential harmful effect on the child or on the quality of services which he or she needs; and

(5) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

Stat. Auth.: ORS 343.041, 343.045 & 343.055.

Stats. Implemented: ORS 343.045 & 343.155, 34 CFR 300.116, 300.327

Hist.: 1EB 269, f. & ef. 12-22-77; EB 11-1995, f. & cert. ef. 5-25-95; ODE 31-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0061, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2255

Nonacademic Settings

(1) In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities described in OAR 581-015-2070, each school district must ensure that each child with a disability participates with children who do not have a disability in the extracurricular services and activities to the maximum extent appropriate to the needs of that child.

(2) School districts must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP Team to be appropriate and necessary for the child to participate in nonacademic settings.

Stat. Auth.: ORS 343.041, 343.045 & 343.055

Stats. Implemented: ORS 343.045, 343.155 & 34 CFR 300.117

Hist.: ODE 10-2007, f. & cert. ef. 4-25-07; ODE 26-2008, f. 10-23-08, cert. ef. 10-24-08

581-015-2260

Rights of Children with Disabilities in Private Schools Placed or Referred by Public Agencies

Each public agency must ensure that a child with a disability who is placed in or referred to a private preschool, school or facility by the public agency as a means of providing early intervention/early childhood special education (EI/ECSE) or special education and related services:

(1) Is provided EI/ECSE or special education and related services in conformance with an IEP or IFSP, and at no cost to the parents;

(2) Is provided an education that meets the standards that apply to education provided by the public agency (except that private school teachers do not need to be highly qualified special education teachers); and

(3) Has all of the rights of a child with a disability who is served by the public agency.

Stat. Auth.: ORS 343.041, 343.045, 343.055

Stats. Implemented: ORS 343.221, 34 CFR 300.148

Hist.: ODE 12-2000, f. 5-3-00, cert. ef. 5-3-00; Renumbered from 581-015-0701, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2265

Obligations of Public Agencies that Contract with Approved Private Schools

(1) For the purposes of this rule, "public agency" means school districts and other public agencies that contract to provide EI/ECSE or special education. Public agencies may contract with private schools or preschools that are approved by the Department as contractors for EI/ECSE or special education pursuant to OAR 581-015-2270 through 581-015-2280.

(2) For a child birth through age 21, the public agency must fulfill all federal and state requirements relating to the evaluation, IFSP or IEP development, and placement when determining whether the child shall be placed in an approved private preschool for EI/ECSE services. For children ages 3 through 21, the public agency also must determine whether placement in an approved private school or preschool constitutes a free appropriate public education in the least restrictive environment for each child.

(3) A public agency that proposes to place a child with a disability in an approved private school or preschool must ensure that:

(a) The school-aged child is a resident of the school district under Oregon law;

(b) The child is eligible to receive EI/ECSE or special education services.

(4) Before the public agency places a child with a disability in an approved private school or preschool:

(a) The public agency must initiate and conduct a meeting to develop an IFSP or IEP meeting.

(b) The public agency must ensure that a representative of the approved private school or preschool attends the meeting.

(c) If a representative of the approved private school or preschool is unable to attend the meeting, the public agency must use other methods to ensure participation including, but not limited to, individual or conference telephone calls, or individual meetings.

(5) After a public agency initially places a child in an approved private school or preschool, any subsequent meetings to review or revise the child's IFSP or IEP are the responsibility of the public agency.

(6) The public agency may request by written agreement that the approved private school or preschool initiate and conduct IFSP or IEP meetings. If the approved private school or preschool initiates and conducts these meetings at the request of the public agency, the public agency must ensure that the parents and a representative of the public agency:

(a) Are involved in any decision about the child's IFSP or IEP; and

(b) Agree to any proposed changes in the program before those changes are implemented.

(7) The public agency must conduct the meeting pursuant to OAR 581-015-2250 or, for ECSE, OAR 581-015-2845, to determine the annual educational placement of a child.

(8) The public agency placing a child age 3 through 21 in an approved private school or preschool must ensure that the child and the child's parents receive all the rights and protections as required for children with disabilities served by public agencies as set forth in federal law and in OAR chapter 581, division 015.

(9) The school district where the child resides must ensure that transportation is provided to and from the approved private school or preschool.

Stat. Auth.: ORS 343.041, 343.045, 343.055;

Stats. Implemented: ORS 343.221, 34 CFR 300.325

Hist.: 1EB 40-1978, f. & ef. 10-5-78; EB 18-1994, f. & cert. ef. 12-15-94; ODE 16-2000, f. & cert. ef. 5-23-00; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03; Renumbered from 581-015-0141, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2270

Standards for Approval of Private Schools for School-age Children

(1) Applicability:

(a) This rule applies to private schools that intend to provide special education and related services to school-age children with disabilities who are placed in the school by a school district.

(b) This rule does not apply to educational programs operated by public agencies at treatment centers under OAR 581-015-2570 to 581-015-2574.

(c) This rule does not apply to private alternative schools registered under OAR 581-021-0072 if the contracting school district is providing the special education and related services in the student's IEP.

(2) Requirement for approval: Private schools that intend to provide special education under a written agreement with a school district must submit an application for initial approval and an annual application for renewal to the Department on a form provided by the Department in accordance with this rule.

(3) Initial approval: The application for initial approval must include:

(a) Documentation that the private school meets the following requirements:

(A) The applicable fire codes of the local or state fire marshal, including an annual inspection and documentation of correction of any violations;

(B) Facility occupancy and use standards set forth by the appropriate local building inspectors;

(C) Health standards of the county health department (including annual inspection and correction of any violations for environmental health, food service, and communicable disease); and

(D) OAR 581-022-1420 Emergency Plans and Safety Programs;

(E) If the private school acquired or leased a building after October 12, 1988, a copy of the Asbestos Management Plan in accordance with OAR 581-022-1430; and

(F) OAR 581-022-1440 Infectious Diseases including Acquired Immune Deficiency Syndrome (AIDS), Human Immunodeficiency Virus (HIV), and Hepatitis B and C

(b) Documentation that the private school:

(A) Has in effect commercial general liability insurance with policy limits of at least \$500,000 per school site.

(i) The private school must provide the Department with the name of the insurance company, the number of the insurance policy, the policy limits covered by the policy, and the effective term of the policy.

(ii) If policy will expire during the approval year, the private school must submit documentation to the Department before the expiration date to maintain approval status.

(B) Has procedures in place regarding staff hiring and evaluation that require:

(i) The careful checking of personal and professional references for all potential employees;

(ii) Criminal background checks in compliance with ORS 181.539, 326.603, 326.607 and 342.232 for all potential employees; and

(iii) A regular schedule of staff evaluations of the competencies of all employees to work with children.

(C) Has a policy of nondiscrimination;
 (D) Provides hours of instruction that meet state standards;
 (E) Grants credit toward high school graduation consistent with OAR 581-022-1130 Diploma Requirements and 581-022-1350(2) and (3) Alternative Education Programs, or, if appropriate, an alternate document of completion as permitted under ORS 343.295.

(c) Assurances that the private school:

(A) Uses curriculum content, teaching practices and equipment that do not violate the constitutional prohibition on religious entanglement;

(B) Implements the special education services as described in each child's individualized education program in accordance with the contract between the private school and the placing school district;

(C) Maintains the confidentiality of student records consistent with state and federal laws relating to student records;

(D) Notifies the Department and the contracting public agency of any written complaint it receives concerning the special education programs and services being provided;

(E) Notifies the contracting public agency of the need for any change in a child's educational program and does not make changes in a child's IEP or special education program or services, or placement, unless the contracting school district consents to the changes; and

(F) Initiates and convenes IEP meetings only when this assistance is requested by a written agreement with the contracting school district in accordance with OAR 581-015-2265;

(G) Evaluates a child only when this assistance is requested by a written agreement with the contracting school district;

(H) Has at least one individual qualified to provide special education and licensed according to rules established by the Teacher Standards and Practices Commission available to serve the population of students described in the application. Private schools may provide special education and related services to students with disabilities placed by public agencies by employing professionals who are licensed within their own specialties. Pursuant to OAR 584-036-0010, these personnel are not required to hold licensure from the Teacher Standards and Practices Commission.

(I) Ensures that students have the opportunity to participate in district-wide and state-wide assessments of student achievement; and

(J) Meets the state curriculum standards set pursuant to OAR 581-022-1210.

(4) Renewal: The annual application for renewal of approval must include:

(a) Documentation that the private school meets:

(A) The requirements in subsection (3)(a)(A) and (3)(a)(C);

(B) If remodeled since the previous approval, the requirement in subsection (3)(a)(B);

(b) Documentation that the private school has insurance in accordance with subsection (3)(b)(A);

(c) Assurances that the private school meets the requirements in subsection (3)(a)(D)–(F), (3)(b)(B)–(E); and (3)(c).

Stat. Auth.: ORS 343.041, 343.045 & 343.055

Stats. Implemented: 343.221

Hist.: 1EB 28-1978, f. & ef. 7-20-78; EB 18-1994, f. & cert. ef. 12-15-94; ODE 18-2000, f. & cert. ef. 5-23-00; ODE 2-2003, f. & cert. ef. 3-10-03; ODE 1-2004, f. & cert. ef. 1-15-04; ODE 10-2004, f. & cert. ef. 8-4-04; Renumbered from 581-015-0126, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2009, f. & cert. ef. 12-10-09

581-015-2275

Standards for Approval of Private Preschools

(1) Applicability:

(a) This rule applies to private preschools that intend to provide a preschool setting, early intervention (EI) or early childhood special education (ECSE) and related services, in accordance with an individual family service plan IFSP to children with disabilities ages birth to five placed in the preschool by the contractor or subcontractor.

(b) This rule does not apply to:

(A) Private preschools that include kindergarten (which must apply for approval under OAR 581-015-2265);

(B) Public agencies providing educational programs at treatment centers under OARs 581-015-2570 to 581-015-2574;

(C) Public programs including preschools operated by school districts. Oregon Head Start Prekindergarten, Head Start, Migrant Seasonal Head Start, Tribal Head Start, Early Head Start, Migrant Education preschools, and Even Start Family Literacy programs.

(2) Requirement for approval:

(a) Private preschools that intend to provide EI or ECSE and related services and/or a preschool setting under a written agreement with an EI/ECSE contractor or subcontractor must submit an application for initial approval and an annual application for renewal to the Department on a form provided by the Department, in accordance with this rule.

(b) A current Certificate of Approval from the Department of Employment's Child Care Division may be submitted in place of certain requirements as specified below, provided that:

(A) The Certificate of Approval is maintained throughout the approval period; or

(B) If the Certificate of Approval will expire during the approval term, the private school submits a new Certificate of Approval to the Department before the expiration date to maintain approved status.

(3) Initial approval:

(a) The application for initial approval must include documentation that the private preschool meets the following requirements:

(A) The applicable fire codes of the local or state fire marshal, including an annual inspection and documentation of correction of any violations;

(B) A copy of the initial facility occupancy and use standards set forth by the appropriate local building inspector;

(C) Health standards of the county health department (including annual inspection and correction of any violations for environmental health, food service, and communicable disease);

(D) The requirements set by OAR 581-022-1420 Emergency Plans and Safety Programs; and

(E) Procedures for staff hiring and evaluation that require:

(i) The careful checking of personal and professional references for all potential employees;

(ii) Criminal background checks in compliance with ORS 181.539, 326.603, 326.607 and 342.232 for all potential employees and evidence that these have been completed; and

(iii) A regular schedule of staff evaluations of the competencies of all employees to work with children.

(b) The application for initial approval must also include the following:

(A) Documentation that the private preschool has in effect commercial general liability insurance with policy limits of at least \$500,000 per school site.

(i) The private preschool must provide the Department with the name of the insurance company, the number of the insurance policy, the policy limits covered by the policy, and the effective term of the policy.

(ii) If policy will expire during the approval year, the private school must submit documentation to the Department before the expiration date to maintain approval status.

(B) The private school's policy of nondiscrimination.

(c) The application for initial approval must include assurances that the private preschool:

(A) Has at least one individual who is qualified to provide EI/ECSE and meets the requirements of OAR 581-015-1100(2) and (3);

(B) Uses curriculum content, teaching practices and equipment that do not violate the constitutional prohibition on religious entanglement;

(C) Implements each child's IFSP in accordance with the private preschool's written agreement with the EI/ECSE contractor or subcontractor responsible for the child's placement;

(D) Maintains the confidentiality of student records consistent with state and federal laws relating to student records;

(E) Notifies the Department and the contracting EI/ECSE contractor or subcontractor of any written complaint it receives for the EI/ECSE programs and services being provided;

(F) Notifies the contracting EI/ECSE contractor or subcontractor of the need for any change in a child's educational program and does not make changes in a child's IFSP, program, services, or placement, unless the contracting EI/ECSE contractor or subcontractor consents to the changes;

(G) Initiates and convenes the IFSP only when this assistance is requested by a written agreement with the contracting EI/ECSE contractor or subcontractor in accordance with OAR 581-015-2265;

(H) Evaluates a child only when this assistance is requested by a written agreement with the contracting EI/ECSE contractor or subcontractor; and

(I) Provides the opportunity for a child to participate in the Early Childhood assessment if this assistance is requested by a written agreement with the contracting EI/ECSE contractor or subcontractor.

(d) A current Certificate of Approval may be submitted in place of the requirements in subsection (3)(a).

(4) Renewal: The annual application for renewal of approval must include:

(a) Documentation that the private preschool:

(A) Meets the requirements in subsection (3)(a)(A) and (C);

(B) If remodeled since the previous approval, meets the requirement in (3)(a)(B); and

(C) Has insurance in effect in accordance with subsection (3)(b)(A);

(b) Assurances that the private preschool meets the requirements in subsections (3)(a)(D)–(E), (3)(b)(B)–(C), and (3)(c).

(c) A current Certificate of Approval may be submitted in place of requirements in subsection (4)(a)(A)–(B).

Stat. Auth.: ORS 343.041, 343.045, 343.055

Stats. Implemented: ORS 343.465, 343.475 & 343.495

Hist.: ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2009, f. & cert. ef. 12-10-09

581-015-2280

Process for Approval of Private School or Preschool as a Contractor with Public Agencies

(1) Initial approval: A private school or private preschool applying for initial approval may submit an application to the Department at any time pursuant to OAR 581-015-2270 and 581-015-2275, respectively. The private school or preschool will be notified by the Department of its approval or denial as quickly as possible but no later than 45 days after receipt of the completed application. The period of approval of the private school or preschool receiving initial approval will be from the date of notification of approval by the Department until the 15th day of August.

(2) Renewal:

(a) After a private school or preschool receives initial approval of an application, the private school or preschool must submit annual applications for renewal in accordance with OAR 581-015-2270 and 581-015-2275, respectively.

(b) The Department will begin accepting a private school's or preschool's annual application for renewal on April 1 of each year. The Department will notify the private school or preschool of its decision to renew or deny renewal of approval within 45 days of receipt of the completed application. The period of approval for a private school requesting renewal will be one year beginning on the 15th day of August.

(3) Amendment:

(a) An approved private school or preschool may make major program changes only with written prior approval from the Department. A major program change consists of any change in the information contained in a private school's or preschool's approved application that would affect the school or preschool's approval or disapproval under this rule.

(b) To request and receive approval for program changes, the private school or preschool must submit an amendment to the current approved application describing the changes proposed and the reasons for the changes. In addition, the amendment must describe the effect the changes will have on the children currently served under contracts with public agencies.

(c) After submitting an amendment as described in subsection (4)(a) of this rule, the private school or preschool may operate the services under the provisions of the amendment with conditional approval until the Department notifies the private school of the approval or denial of the amendment. The Department will notify the private school or preschool of approval or denial within a reasonable period of time, but no more than 45 days after receipt of the amendment by the Department.

Stat. Auth.: ORS 343.041, 343.045, 343.055

Stats. Implemented: ORS 343.221, 343.475, 343.495

Hist.: 1EB 28-1978, f. & ef. 7-20-78; EB 40-1988(Temp), f. & cert. ef. 11-15-88; EB 20-1989, f. & cert. ef. 5-15-89; EB 18-1994, f. & cert. ef. 12-15-94; ODE 18-2000, f. & cert. ef. 5-23-00; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0131, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2285

Suspension, Revocation or Refusal to Renew Approval

The Department may suspend, revoke or refuse to renew its approval of a private school or preschool to contract with public agencies for the provision of early intervention, early childhood special education or special education services if:

(1) The private school fails to maintain the approval standards in OAR 581-015-2270;

(2) The private preschool fails to maintain the approval standards in OAR 581-015-2275;

(3) The private school or preschool violates the rights of children with disabilities; or

(4) The private school or preschool refuses to implement corrective actions ordered by the Department after completion of a special investigation.

Stat. Auth.: ORS 343.041, 343.045, 343.055

Stats. Implemented: ORS 343.055

Hist.: ODE 18-2000, f. & cert. ef. 5-23-00; Renumbered from 581-015-0711, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2290

Appeal of Denial, Suspension, Revocation or Refusal to Renew Approval

A private school or preschool may appeal the Department's denial, suspension, revocation or refusal to renew approval of a private school or preschool to contract with public agencies for the provision of early intervention, early childhood special education or special education services by requesting a contested case hearing under the provisions of ORS 183.413 through 183.470.

Stat. Auth.: ORS 343.041, 343.045, 343.055

Stats. Implemented: ORS 343.055

Hist.: ODE 18-2000, f. & cert. ef. 5-23-00; Renumbered from 581-015-0712, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2295

Out-of-State Placements for Special Education

(1) Any private educational institution located outside the state of Oregon which provides special education to Oregon students eligible for special education pursuant to a contract with an Oregon district, ESD, or the Oregon Department of Education must first be approved by the state education agency of the state in which the educational institution is located.

(2) Documentation of such approval must be maintained by the district placing a child in an out-of-state program and made available to the Department upon request.

(3) Contractual arrangements for out-of-state special education services may be made when:

(a) It is determined that no appropriate in-state placement option is available; and

(b) Such a placement is made after the development of an IEP as specified in OAR 581-015-2190 through 581-015-2225.

(4) In the event the state does not have a formal, approved process, the school shall meet whatever requirements apply for private schools to serve publicly placed students in that state.

Stat. Auth.: ORS 343.041, 343.045

Stats. Implemented: ORS 343.041, 343.045

Hist.: ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2300

Access to Student Education Records

(1) For purposes of ensuring the safeguards required for education records of children with disabilities, including early intervention and early childhood special education records, the Department adopts by reference the provisions of FERPA, 34 CFR 99.1 to 99.38, the IDEA, 34 CFR 300.610 to 34 CFR 300.627 and 34 CFR 303.401 through 303.411.

(a) For children with disabilities under age three, references to a “student” in these rules means an infant or toddler with a disability.

(b) For children with disabilities under age three, “student records” means EI records.

(2) This provision includes all education records with respect to:

(a) The identification, evaluation, and educational placement of the child; and

(b) The provision of a free appropriate public education to the child.

(3) The program, district, agency, or contractor must comply with a parent’s request to inspect and review records without unnecessary delay and within the following timelines:

(a) For children under age three, before any meeting regarding an IFSP, or any hearing pursuant to 303.430(d) and 303.435 through 303.340, and in no case more than 10 days after the request has been made.

(b) For children over the age of three, before any meeting regarding an IEP/IFSP, or any due process hearing, or resolution session related to a due process hearing, and in no case more than 45 days after the request has been made.

Stat. Auth.: ORS 343.041, 343.155

Stats. Implemented: ORS 343.155, 343.173, 34 CFR 300.501 & 34 CFR 303.405(a)

Hist.: ODE 4-2000, f. & cert. ef. 2-1-00; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03; Renumbered from 581-015-0606, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 13-2012(Temp), f. 3-30-12, cert. ef. 4-2-12 thru 9-1-12; ODE 15-2012, f. 6-8-12, cert. ef. 6-11-12

581-015-2305

Independent Educational Evaluation

(1) A parent of a child with a disability or suspected disability has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the school district.

(a) “Independent educational evaluation” means an evaluation conducted by a qualified examiner who is not employed by the school district responsible for the education of the child.

(b) “Public expense” means that the school district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.

(2) If a parent requests an independent educational evaluation at public expense, the school district must provide information to parents about where an independent educational evaluation may be obtained, and the school district criteria applicable for independent educational evaluations.

(3) If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation, the qualifications of the examiner, and cost, must be the same as the criteria the school district uses when it initiates an evaluation, to the extent those criteria are consistent with the parent’s right to an independent educational evaluation.

(a) Except for the criteria in subsection (3), a school district may not impose conditions, or timelines related to obtaining an independent education evaluation at public expense.

(b) The school district must provide parents an opportunity to demonstrate that unique circumstances justify an independent education evaluation that does not meet the district’s criteria.

(4) If a parent requests an independent education evaluation at public expense, the school district must, without unnecessary delay, either:

(a) Ensure that an independent educational evaluation is provided at public expense unless the school district demonstrates in a hearing under OAR 581-015-2345 that the evaluation obtained by the parent did not meet school district criteria in accordance with (3); or

(b) Initiate a due process hearing under OAR 581-015-2345 to show that its evaluation is appropriate.

(5) If the school district initiates a hearing and the final decision is that the school district’s evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

(6) If the parent requests an independent educational evaluation, the school district may ask why the parent disagrees with the public evaluation. The parent may, but is not required, to provide an explanation. The school district may not unreasonably delay either providing the independent education evaluation at public expense or initiating a due process hearing to defend the public evaluation.

(7) If the parent obtains an independent educational evaluation at public expense or shares with the district an evaluation obtained at private expense, the results of the evaluation:

(a) Must be considered by the school district, if it meets the district’s criteria, in any decision made with respect to the provision of a free appropriate public education to the child; and

(b) May be presented by any party as evidence at a due process hearing.

(8) If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense.

(9) A parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees.

Stat. Auth.: ORS 343.041, 343.045, 343.055, 343.155

Stats. Implemented: ORS 343.155, 343.173, 34 CFR 300.502

Hist.: 1EB 269, f. & ef. 12-22-77; 1EB 18-1979(Temp), f. & ef. 11-15-79; 1EB 5-1980, f. 2-22-80, ef. 2-23-80; EB 28-1989(Temp), f. & cert. ef. 10-16-89; EB 3-1990, f. & cert. ef. 1-26-90; EB 11-1995, f. & cert. ef. 5-25-95; ODE 21-1999, f. & cert. ef. 9-24-99; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0094, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2310

Prior Written Notice

(1) For purposes of this rule, school district also means ECSE program and its contractors and subcontractors.

(2) Prior written notice must be given to the parent of a child, and to the adult student after rights have transferred, within a reasonable period of time before a school district.

(a) Proposes to initiate or change, the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child; or

(b) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

(3) The content of the prior written notice must include:

(a) A description of the action proposed or refused by the school district;

(b) An explanation of why the district proposes or refuses to take the action;

(c) A description of each evaluation procedure, assessment, test, record, or report the school district used as a basis for the proposed or refused action;

(d) A statement that the parents of a child with a disability have protection under the procedural safeguards and, if this notice is not an initial referral for evaluation, the means by which a copy of the Notice of Procedural Safeguards may be obtained;

(e) Sources for parents to contact to obtain assistance in understanding their procedural safeguards.

(f) A description of other options that the IEP Team considered and the reasons why those options were rejected; and

(g) A description of other factors that are relevant to the agency's proposal or refusal.

(4) The prior notice must be:

(a) Written in language understandable to the general public; and

(b) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(5) If the native language or other mode of communication of the parent is not a written language, the school district must take steps to ensure that:

(a) The notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;

(b) The parent understands the content of the notice; and

(c) There is written evidence that the requirements in subsections (5)(a) and (b) of this rule have been met.

Stat. Auth.: ORS 343.045 & 343.155

Stats. Implemented: ORS 343.155, 343.159 & 34 CFR 300.503

Hist.: 1EB 18-1979(Temp), f. & cert. ef. 11-15-79; 1EB 5-1980, f. 2-22-80, ef. 2-23-80; EB 28-1989(Temp), f. & cert. ef. 10-16-89; EB 3-1990, f. & cert. ef. 1-26-90; EB 11-1995, f. & cert. ef. 5-25-95; ODE 18-1999, f. & cert. ef. 9-24-99; ODE 2-2003, f. & cert. ef. 3-10-03; ODE 1-2004, f. & cert. ef. 1-15-04; Renumbered from 581-015-0075, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 11-2013(Temp), f. & cert. ef. 4-25-13 thru 10-21-13; ODE 12-2013, f. & cert. ef. 5-30-13

581-015-2315

Notice of Procedural Safeguards

(1) School districts must give parents a copy of the Notice of Procedural Safeguards at a minimum only one time per year, except that a copy must be given to the parents:

(a) Upon initial referral or parent request for evaluation;

(b) Upon request by a parent; and

(c) Also to the child, at least a year before the child's 18th birthday.

(2) The procedural safeguards notice must include all of the content provided in the Notice of Procedural Safeguards published by the Department in the following areas:

(a) Independent educational evaluations;

(b) Prior written notice;

(c) Parental consent;

(d) Access to educational records;

(e) Mediation, complaints and due process hearings;

(f) The child's placement during pendency of due process proceedings;

(g) Procedures for students who are subject to placement in an interim alternative educational setting;

(h) Requirements for unilateral placement by parents of children in private school at public expense;

(i) Civil actions, including the time period for filing such actions;

(j) Attorney's fees; and

(k) Transfer of rights at age of majority.

(3) The Notice of Procedural Safeguards must be written in language understandable to the general public.

(4) The Notice of Procedural Safeguards must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(5) If the native language or other mode of communication of the parent is not a written language, the school district shall take steps to ensure:

(a) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;

(b) That the parent understands the content of the notice; and

(c) That there is written evidence that the district has met these requirements.

Stat. Auth.: ORS 343.055, 343.155

Stats. Implemented: ORS 343.155, 34 CFR 300.504

Hist.: ODE 19-1999, f. & cert. ef. 9-24-99; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0079, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2320

Surrogate Parents

(1) Each public agency must ensure that the rights of a child are protected by determining the need for, and when appropriate assigning, a surrogate parent when no parent (as defined in OAR 581-015-2000) with legal rights in respect to a student's educational decision making can be identified or located after reasonable efforts and additionally:

(a) The child is a ward of the state and there is reasonable cause to believe that the child has a disability; or

(b) The child is an unaccompanied homeless youth.

(2) The school district may not appoint a surrogate solely because the parent or adult student to whom rights have transferred is uncooperative or unresponsive to special education needs.

(3) Each school district must have a method for determining whether a child needs a surrogate parent and for assigning a surrogate parent to the child. The school district must ensure that each person approved to serve as a surrogate:

(a) Is not an employee of the school district or the Department or any other agency that is involved in the education or care of the child;

(b) Is free of any personal or professional interest that conflicts with representing the child's special education interests; and

(c) Has knowledge and skills that ensure adequate representation of the child in special education decisions.

(4) For an unaccompanied homeless youth, appropriate staff of emergency shelters, independent living programs and street outreach programs may be appointed as a temporary surrogate parent without regard to subsection (3)(a) until a surrogate can be appointed that meets all of the requirements of subsection (3).

(5) An appointed surrogate parent has all of the special education rights and procedural safeguards available to the parent.

(6) A surrogate is not considered an employee of a school district solely on the basis that the surrogate is compensated from public funds.

(7) The duties of the surrogate parent are to:

(a) Protect the special education rights of the child;

(b) Be acquainted with the child's disability and the child's special education needs;

(c) Represent the child in all matters relating to the identification, evaluation, IEP and educational placement of the child; and

(d) Represent the child in all matters relating to the provision of a free appropriate public education to the child.

(8) A surrogate has the same rights granted to a parent in a hearing under OAR 581-015-2360, and the procedures regarding hearings in OAR 581-015-2340 through 581-015-2385 apply.

(9) A parent, or an adult student to whom rights have transferred, may give written consent for a surrogate to be appointed.

(a) When a parent or an adult student requests that a surrogate be appointed:

(A) The parent or adult student retains all parental rights to receive notice under OAR 581-015-2190, 581-015-2195, 581-015-2310, and 581-015-2315 and all of the information provided to the surrogate.

(B) The surrogate, alone, is responsible for all matters relating to the special education of the child unless the parent or adult student revokes consent for the surrogate's appointment.

(b) The parent or adult student may revoke consent at any time by providing a written request to revoke the surrogate's appointment.

(10) The school district may change or terminate the appointment of a surrogate when:

(a) The person appointed as surrogate is no longer willing to serve;

(b) Rights transfer to the adult student or the child graduates with a regular diploma;

(c) The child is no longer eligible for special education services;

(d) The legal guardianship of the child is transferred to a person who is able to carry out the role of the parent;

(e) A foster parent is identified who can carry out the role of parent under OAR 581-015-2000(20);

(f) The parent, who previously could not be identified or located, is now identified or located;

(g) The appointed surrogate is no longer eligible;

(h) The child moves to another school district; or

(i) The child is no longer a ward of the state or an unaccompanied homeless youth.

(11) A person appointed as surrogate will not be held liable for actions taken in good faith on behalf of the parent in protecting the special education rights of the child.

(12) When it is determined that a surrogate parent is needed to protect the rights of a student with a disability as outlined above, the surrogate must be appointed not more than 30 days after the determination that the student needs a surrogate.

Stat. Auth.: ORS 343.041, 343.045, 343.055, 343.155

Stats. Implemented: ORS 343.155, 34 CFR 300.519

Hist.: 1EB 18-1979(Temp), f. & ef. 11-15-79; 1EB 5-1980, f. 2-22-80, ef. 2-23-80; EB 9-1992, f. & cert. ef. 4-7-92; EB 11-1995, f. & cert. ef. 5-25-95; ODE 23-1999, f. & cert. ef. 9-24-99; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0099, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 6-2015, f. & cert. ef. 3-11-15

581-015-2325

Transfer of Procedural Rights at Age of Majority

(1) When a child with a disability reaches the age of majority under ORS 109.510 or 109.520, or is emancipated pursuant to 419B.550 to 419B.558, the rights accorded to the child's parents under the special education laws transfer to the child. A student for whom rights have transferred is considered an "adult student" under OAR 581-015-2000.

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

(a) Pursuant to a protective proceeding under ORS Chapter 125, the Probate Court may find the child to be incapacitated to make educational decisions and may appoint a guardian to exercise these rights.

(b) Under ORS 419B.220 or 419C.220, the Juvenile Court may appoint a surrogate parent to exercise these rights if the child is a ward of the state.

(3) School districts are not responsible for the costs of a protective proceeding unless the school district is the Petitioner.

(4) Pursuant to OAR 581-015-2320(9), a child to whom rights transfer may request that a surrogate be appointed to exercise the child's special education rights.

(5) This rule applies to all students, including students who are incarcerated in a state or local adult or juvenile correctional facility or jail.

Stat. Auth.: ORS 343.055, 343.155

Stats. Implemented: ORS 343.155, 343.181, 34 CFR 300.520

Hist.: ODE 24-1999, f. & cert. ef. 9-24-99; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0101, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2330

Notice of Transfer of Rights at Majority

(1) The school district must provide notice to the child and the parent that rights will transfer at the age of majority. This notice must be provided at the IEP meeting and documented on the IEP:

(a) At least one year before the child's 18th birthday; or

(b) Upon actual knowledge that within a year the child will likely marry or become emancipated before age 18.

(2) The school district must provide written notice to the child and to the parent at the time of the transfer of rights.

Stat. Auth.: ORS 343.055, 343.155

Stats. Implemented: ORS 343.155, 343.181, 34 CFR 300.520

Hist.: ODE 25-1999, f. & cert. ef. 9-24-99; Renumbered from 581-015-0102, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2335

Mediation

(1) The Department offers mediation at no cost to the parties to resolve special education disputes, including matters arising before the filing of a complaint or hearing request.

(2) Mediation:

(a) Must be voluntary on the part of the parties;

(b) Must not be used to deny or delay a parent's right to a due process hearing under OAR 581-015-2345, a complaint under 581-015-2030 or other procedural safeguards; and

(c) Must be conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

(3) The Department maintains a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services. The parties to mediation participate in the selection of the mediator. Mediators are selected from the list on a random, rotational, or other impartial basis.

(4) Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute.

(5) An agreement reached by the parties to the dispute in the mediation process must be set forth in a legally binding written mediation agreement. The written agreement must:

(a) State the terms of the agreement;

(b) State that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and

(c) Be signed by the parent and a representative of the school district who has the authority to bind the district.

(6) The mediation agreement is enforceable in any state court of competent jurisdiction or in a district court of the United States.

(7) Discussions that occur during the mediation process are confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings.

(8) Notwithstanding subsection (6), a mediation communication is not confidential if it relates to child or elder abuse and is made to a person who is required to report abuse, or threats of physical harm, or professional conduct affecting licensure.

(9) An individual who serves as a mediator:

(a) May not be an employee of:

(A) Any school district;

(B) The Department of Corrections;

(C) The Department of Education; and

(b) Must not have a personal or professional interest that conflicts with the person's objectivity.

(10) A person who otherwise qualifies as a mediator is not an employee under subsection (9)(a) of this rule solely because he or she is paid by the Department to serve as a mediator.

(11) The Department may request parents who are reluctant to use the mediation process to meet with a neutral party who would explain the benefits of the mediation process and encourage the parents to use the process. This meeting shall occur at a time and location convenient to the parents and at no cost to the parents. The Department or school district may not deny or delay a parent's right to a due process hearing if the parent fails to participate in this meeting.

Stat. Auth.: ORS 343.055, 343.155

Stats. Implemented: ORS 343.155, 34 CFR 300.506

Hist.: ODE 22-1999, f. & cert. ef. 9-24-99; Renumbered from 581-015-0095, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2340

Procedural Rules for Due Process Hearings

(1) Pursuant to an interagency agreement with the Office of Administrative Hearings, the Office of Administrative Hearings will assign administrative law judges to conduct special education due process hearings.

(2) The Department of Justice's model rules for administrative hearings, OAR 137-003-0501 through 137-003-0700, apply to the extent consistent with federal law and these division 15 regulations. The Department's interagency agreement with the Office of Administrative Hearings will identify delegations of authority and the application of the rules in this section.

Stat. Auth.: ORS 343.041, 343.045, 343.055, 343.155

Stats. Implemented: ORS 343.055, 343.155

Hist.: ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0097, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2345

Hearing Request and Response

(1) Request for Hearing:

(a) Parent Requests for a Due Process Hearing:

(A) A parent may request a due process hearing in accordance with subsection(3) if the parent does not agree with the identification, evaluation, educational placement of a child, or the provision of a free appropriate education to a child who may be disabled.

(B) The parent, or the attorney representing the child, must provide notice to the school district and to the Department when requesting a hearing. The notice (which remains confidential) must, include:

(i) The child's name and address (or available contact information in the case of a homeless child);

(ii) The name of the school the child is attending;

(iii) A description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem; and

(iv) A proposed resolution of the problem to the extent known and available to the party at the time.

(b) School District Requests for a Due Process Hearing:

(A) A school district may request a due process hearing regarding identification, evaluation or educational placement of a child with a disability, or the provision of a free appropriate public education to the child.

(B) The school district requesting a due process hearing, or the attorney representing the district, must provide notice to the parent and to the Department in as described in subsection (1)(a)(B).

(c) A party may not have a hearing until the party, or the attorney representing the party, files a due process hearing request that meets the requirements of subsection (1)(a)(B) or (1)(b)(B).

(2) Response to hearing request:

(a) School district: If the school district has not sent a prior written notice to the parent regarding the subject matter in the parent's due process request, the school district must, within ten days of receiving the request:

(A) Send to the parent a response that includes:

(i) An explanation of why the school district proposed or refused to take the action raised in the hearing request;

(ii) A description of other options that the IEP team considered and the reasons why those options were rejected;

(iii) A description of each evaluation procedure, assessment, record or report the school district used as the basis for the proposed or refused action; and

(iv) A description of the factors relevant to the school district's proposal or refusal.

(B) The school district's response under subsection (2)(a)(A) may not be construed to preclude the school district from asserting that the parent's due process request was insufficient, where appropriate.

(b) Parent and school district:

(A) The party that did not file the hearing request must, within ten days of receiving the request for hearing, send to the other party a response that specifically addresses the issues raised in the hearing request.

(B) A school district providing a response to an issue under subsection (3)(a) is not required to respond to the same issue under (3)(b).

(3) Time limitation and exception:

(a) A special education due process hearing must be requested within two years after the date of the act or omission that gives rise to the right to request the hearing.

(b) This timeline does not apply to a parent if the parent was prevented from requesting the hearing due to specific misrepresentations by the school district that it had resolved the problem forming the basis of the complaint, or the school district's withholding of information from the parent that the district was required to provide under Chapter 343.

(4) Information: The Department will inform a parent of any free or low-cost legal services and other relevant services available in the area if a parent requests the information.

Stat. Auth.: ORS 343.045, 343.055 & 343.155;

Stats. Implemented: ORS 343.165, 34 CFR 300.507, 300.508, 300.511(e)

Hist.: 1EB 269, f. & ef. 12-22-77; 1EB 18-1979(Temp), f. & ef. 11-15-79; 1EB 5-1980, f. 2-22-80, ef. 2-23-80; EB 28-1989(Temp), f. & cert. ef. 10-16-89; EB 3-1990, f. & cert. ef. 1-26-90; EB 9-1992, f. & cert. ef. 4-7-92; EB 9-1993, f. & cert. ef. 3-25-93; ODE 20-1999, f. & cert. ef. 9-24-99; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0081, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2350

Sufficiency of Hearing Request

(1) A written request for hearing will be deemed sufficient unless the party receiving the request notifies the administrative law judge and the other party in writing, within 15 days of receipt of the hearing request, that the receiving party believes the notice does not meet the requirements of OAR 581-015-2345.

(2) Within five days of receiving notice that a party is objecting to the sufficiency of the other party's hearing notice, the administrative law judge must make a determination on the face of the hearing request of whether the hearing request meets the requirements of OAR 581-015-2345, and must immediately notify the parties in writing of that determination.

(3) A party may amend its hearing request only if:

(A) The other party consents in writing to the amendment and is given the opportunity to resolve the hearing request through a resolution meeting; or

(B) The administrative law judge grants permission, except that this permission may only be granted at any time not later than five days before a due process hearing occurs.

(4) If a party files an amended hearing request, the applicable timelines for the resolution session and resolution period begin again with the filing of the amended hearing request.

Stat. Auth.: ORS 343.045, 343.055, 343.155;

Stats. Implemented: ORS 343.165, 34 CFR 300.508(d)

Hist.: ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2355

Resolution Process

(1) Resolution meeting:

(a) Within 15 days of receiving a parent's due process hearing request, the school district must hold a resolution meeting with the parents and the relevant member or members of the IEP team who have specific knowledge of the facts identified in the complaint.

(b) The meeting:

(A) Must include a representative of the school district who has decision-making authority on behalf of the school district; and

(B) May not include an attorney for the school district unless the parent is accompanied by an attorney.

(c) The purpose of the meeting is for the parent of the child to discuss the hearing request, and the facts that form the basis of that request, so that the school district has the opportunity to resolve the dispute that is the basis for the due process hearing request.

(d) This resolution meeting need not be held if:

(A) The parent and school district agree in writing to waive the meeting; or

(B) The parent and school district agree to use the mediation process.

(e) The parent and the school district determine the relevant members of the IEP team to attend the meeting.

(2) Resolution period:

(a) If the school district has not resolved the dispute to the satisfaction of the parents within 30 days of the receipt of the due process hearing request, the due process hearing may occur.

(b) The 45 day hearing timeline begins at the end of the 30 day resolution period except as provided in subsection (2)(c).

(c) The 45 day hearing timeline begins the next business day after any of the following circumstances.

(A) The parties agree in writing to waive the resolution session.

(B) After the mediation or resolution meeting starts but before the end of the 30 day resolution period, the parties agree in writing that no agreement is possible.

(C) Both parties agree in writing to continue the mediation at the end of the 30 day resolution period, but later, the parent or school district withdraws from the mediation process.

(d) The failure of a parent requesting a due process hearing to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held, unless:

(A) The parties have agreed to waive the resolution session; or

(B) The parties have agreed to use mediation instead of the resolution meeting.

(e) If the school district is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made and documented (as in OAR 581-015-2195), the school district may, at the conclusion of the 30 day resolution period, request that a hearing officer or administrative law judge dismiss the parent's due process hearing request.

(f) If the school district fails to hold the resolution meeting within 15 days of receiving the parent's due process hearing request or fails to participate in the resolution meeting, the parent may seek the intervention of a hearing officer or administrative law judge to begin the 45 day hearing timeline.

(3) Resolution agreement:

(a) If a resolution to the dispute is reached at the resolution meeting, the parties must execute a legally binding written agreement that is:

(A) Signed by both the parent and a representative of the school district who has the authority to bind the district; and

(B) Enforceable in any state court of competent jurisdiction or in a district court of the United States.

(b) If the parties execute a resolution agreement, either party may void the agreement within three business days of the agreement's execution.

Stat. Auth.: ORS 343.045, 343.055, 343.155, 343.165

Stats. Implemented: ORS 343.045, 343.155, 343.165, 34 CFR 300.510

Hist.: ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2360

Pre-Hearing Conference, Notice of Hearing and Hearing Rights

(1) Upon receipt of a written request by a parent or the school district for a hearing regarding the identification, evaluation, individualized education program, educational placement of the child or the provision of a free appropriate public education to a child, the Superintendent will:

(a) Appoint an administrative law judge, in accordance with OAR 581-015-2365, to conduct the hearing.

(b) Provide the parent with a copy of the Notice of Procedural Safeguards;

(c) Inform the parties that mediation is available at no cost to the parents or school district; and

(d) Inform the parent of any free or low-cost legal services and other relevant services.

(2) Subject matter of hearing: The party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the hearing request unless the other party agrees otherwise.

(3) Pre-Hearing Conference: The administrative law judge will require the parties to appear in person or by telephone for a pre-hearing conference for the purpose of:

(a) Identifying the issues to be resolved;

(b) Establishing the length and scheduling of the hearing;

(c) Deciding whether the hearing record will be a written or electronic verbatim record;

(d) Reviewing the parties' hearing rights and procedures; and

(e) Notifying the parties of the availability of mediation at no cost through the Department.

(4) Notice of Hearing:

(a) The administrative law judge will provide a notice to the parties of the hearing. The notice will be served by registered or certified mail.

(b) The hearing notice will include:

(A) A statement of the time and place of the hearing, the scheduling of pre-hearing exchange of documents and any other filing deadlines, and the date for issuance of the final order;

(B) A statement of the authority and jurisdiction under which the hearing is to be held;

(C) A reference to the particular sections of the statutes and rules involved;

(D) A short and plain statement of the matters asserted or charged;

(E) A statement that mediation is available to the parties at no cost from the Department;

(F) A statement of hearing rights as described in subsection (3).

(5) Due Process Hearing Rights: Parties to a due process hearing conducted under OAR 581-015-2360 (Notice of Hearing, Hearing Rights, and Pre-Hearing Conference) or 581-015-2400 through 581-015-2445 (Discipline for Students with Disabilities) have the following rights:

(a) During the pendency of any due process hearing or judicial appeal, the child must, remain in the present educational placement unless:

(A) The school district and the parent agree otherwise;

(B) If applying for initial admission to a public school, the parent consents to the child's placement in a program provided or selected by the district at the district's expense until all proceedings are completed;

(C) The school district orders a change in placement to an appropriate interim alternative educational setting for up to 45 school days due to a weapon, illegal drug, or controlled substance incident or for serious bodily injury;

(D) The administrative law judge orders a change in placement to an appropriate interim alternative educational setting for up to 45 school days due to the substantial likelihood of injurious behavior; or

(E) The school district implements a disciplinary removal to an interim alternative educational setting for a student when the student's behavior is determined not to be a manifestation of the student's disability.

(b) Any party to a hearing has the right to:

(A) Be accompanied and advised by counsel and by individuals who have special knowledge or training with respect to the problems of children with disabilities;

(B) Present evidence and confront, cross-examine, and compel the attendance of witnesses;

(C) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least 5 business days before the hearing;

(D) Obtain a written or, at the option of the parents, electronic verbatim record of the hearing at no cost to the parents; and

(E) Obtain a written or, at the option of the parents, electronic findings of fact and hearing decision at no cost to the parents.

(c) The parent involved in a hearing has the right to:

(A) Have the child present who is the subject of the hearing; and

(B) Open the hearing to the public.

Stat. Auth.: ORS 343.041, 343.045, 343.055, 343.155, 343.165

Stats. Implemented: ORS 343.155, 343.165, 343.177, 34 CFR 300.504, 300.507(b)(2), 300.511, 300.512, 300.518, 300.530, 300.533

Hist.: 1EB 18-1979(Temp), f. & ef. 11-15-79; 1EB 5-1980, f. 2-22-80, ef. 2-23-80; EB 28-1989(Temp), f. & cert. ef. 10-16-89; EB 29-1989(Temp), f. & cert. ef. 10-16-89; EB 3-1990, f. & cert. ef. 1-26-90; EB 9-1992, f. & cert. ef. 4-7-92; EB 11-1995, f. & cert. ef. 5-25-95; ODE 20-1999, f. & cert. ef. 9-24-99; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0080, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2365

Criteria for Administrative Law Judge

(1) An administrative law judge appointed to conduct a hearing regarding the identification, evaluation, educational placement of a child, or the provision of a free appropriate public education to a child who may have a disability must:

(a) Not be employed by the Department or a school district; and

(b) Not have a professional or personal interest that would conflict with the person's objectivity in the hearing.

(2) An administrative law judge must:

(a) Possess knowledge of, and the ability to understand, the provisions of state and federal special education laws, regulations, and legal interpretations by federal and state courts;

(b) Possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and

(c) Possess the knowledge and ability to render and write decisions in accordance with standard legal practice.

(3) For purposes of section (1)(a) of this rule, a person who otherwise qualifies to conduct a hearing is not an employee of the Department or school district solely because the person is paid by the Department or school district to serve as a hearings officer.

(4) The Department keeps a list of the persons serving as administrative law judges, which includes a statement of the qualifications of each person.

Stat. Auth.: ORS 343.041, 343.045, 343.055, 343.155, 343.165

Stats. Implemented: ORS 343.165, 34 CFR 300.511(c)

Hist.: 1EB 269, f. & ef. 12-22-77; EB 28-1989(Temp), f. & cert. ef. 10-16-89; EB 3-1990, f. & cert. ef. 1-26-90; EB 11-1995, f. & cert. ef. 5-25-95; ODE 33-1999, f. 12-13-99, cert. ef. 12-14-99; Renumbered from 581-015-0096, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2370

Conduct of Hearing

(1) The hearing will be conducted by and under the control of the administrative law judge appointed under 581-015-2360.

(2) At the discretion of the administrative law judge, the hearing will be conducted in the following manner:

(a) Statement and evidence of the school district in support of its action;

(b) Statement and evidence of the parents disputing the school district action;

(c) Rebuttal testimony.

(3) The administrative law judge, counsel or other representatives of the parties, and the parents if the parents are not represented, have the right to question or cross-examine any witnesses.

(4) The hearing may be continued with recesses as determined by the administrative law judge.

(5) The administrative law judge may set reasonable time limits for oral presentation and may exclude or limit cumulative, repetitious or immaterial matter.

(6) Exhibits must be marked, and the markings must identify the person offering the exhibits. The exhibits will be preserved by the Superintendent as part of the record of the proceedings.

(7) Each hearing must be conducted at a time and place that is reasonably convenient to the parents and child involved.

Stat. Auth.: ORS 343.041, 343.045, 343.055, 343.155, 343.165

Stats. Implemented: ORS 343.155, 343.165, 34 CFR 300.512, 300.515(d)

Hist.: 1EB 269, f. 12-22-77, ef. 12-22-77; EB 28-1989(Temp), f. & cert. ef. 10-16-89; EB 3-1990, f. & cert. ef. 1-26-90; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0086, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2375

Decision of Administrative Law Judge

(1) The decision of the hearing officer in a contested case will comply with ORS 343.167.

(2) The decision will be entered and mailed to the parties not later than 45 days after the expiration of the resolution period under OAR 581-015-2375 unless a specific extension has been granted by the administrative law judge at the request of a party.

(3) A copy of the hearing decision will be sent to the parent and school district accompanied by a statement describing the method of appealing the decision.

(4) The Department will submit a copy of the findings and hearing decision to the State Advisory Council for Special Education or a subcommittee of the Council, and make the findings and decisions available to the public, in such a manner so that personally identifiable information will not be disclosed.

Stat. Auth.: ORS 343.041, 343.045, 343.055, 343.155, 343.165

Stats. Implemented: ORS 343.167, 34 CFR 300.513, 300.515

Hist.: 1EB 269, f. & ef. 12-22-77; 1EB 18-1979(Temp), f. & ef. 11-15-79; 1EB 5-1980, f. 2-22-80, ef. 2-23-80; EB 28-1989(Temp), f. & cert. ef. 10-16-89; EB 3-1990, f. & cert. ef. 1-26-90; EB 9-1993, f. & cert. ef. 3-25-93; EB 11-1995, f. & cert. ef. 5-25-95; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0088, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2380

Informal Disposition

Nothing contained herein shall be construed to preclude any system of consultations or conferences with parents that is used by school districts with regard to identification, evaluation or educational placement of a child with a disability. Such conferences or consultations, however, shall not be held in lieu of a hearing requested under OAR 581-015-0081 if one is requested. A request for a hearing shall not preclude informal disposition of the matter by stipulation, agreed settlement or consent order.

Stat. Auth.: ORS 343.041, 343.045, 343.055, 343.155

Stats. Implemented: ORS 343.155

Hist.: 1EB 269, f. & ef. 12-22-77; EB 11-1995, f. & cert. ef. 5-25-95; Renumbered from 581-015-0091, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2383

Failure to Appear at a Hearing

(1) When a parent, having requested a hearing, fails to appear at the specified time and place, the administrative law judge must enter a decision which supports the school district action.

(2) The decision supporting the school district's action must set forth the material on which the action is based, or the material must be attached to and made a part of the decision.

Stat. Auth.: ORS 343.041, 343.045, 343.055, 343.155, 343.165

Stats. Implemented: ORS 343.155 & 343.165

Hist.: 1EB 269, f. & ef. 12-22-77; EB 18-1979(Temp), f. & ef. 11-15-79; 1EB 5-1980, f. 2-22-80, ef. 2-23-80; EB 11-1995, f. & cert. ef. 5-25-95; Renumbered from 581-015-0084, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2385

Hearing Costs

(1) Costs of the Proceedings:

(a) The school district must reimburse the Department for the costs related to conducting the hearing, including pre-hearing conferences, scheduling arrangements, and other related matters.

(b) The school district must provide the parent with a written, or at the option of the parent, an electronic verbatim recording of the hearing, within a reasonable time of the close of the hearing.

(2) Attorney Fees: Funds under Part B of the Individuals with Disabilities Education Act may not be used to pay attorney fees or costs of a party related to an action or proceeding under this rule.

Stat. Auth.: ORS 343.041, 343.045, 343.055, 343.167;

Stats. Implemented: ORS 343.165, 343.167, 34 CFR 300.512, 300.517(b)

Hist.: EB 28-1989(Temp), f. & cert. ef. 10-16-89; EB 3-1990, f. & cert. ef. 1-26-90; EB 9-1992, f. & cert. ef. 4-7-92; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0093, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2390

Definitions for Hearings Under Section 504 of the Rehabilitation Act

The following definitions apply to OAR 581-015-2395:

(1) "Student with a disability under Section 504" means any student who has a physical or mental impairment that substantially limits one or more major life activities.

(2) As used in section (1) of this rule:

(a) "Physical or mental impairment" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; endocrine; any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(b) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working;

(3) "Qualified student with a disability under Section 504" means a student with a disability under Section 504 who is:

(a) Of an age during which persons without a disability are provided educational services;

(b) Of any age during which it is mandatory under state law to provide such services to students with disabilities; or

(c) To whom a state is required to provide a free appropriate public education under the Individuals with Disabilities Education Act.

(4) “School District” means a school district as defined in ORS 343.153.

Stat. Auth.: ORS 326 & 323.055

Stats. Implemented: ORS 343.041

Hist.: EB 7-1987(Temp), f. & ef. 5-11-87; EB 24-1988, f. & cert. ef. 5-24-88; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03; Renumbered from 581-015-0108, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 26-2008, f. 10-23-08, cert. ef. 10-24-08; ODE 12-2011, f. & cert. ef. 10-31-11

581-015-2395

Procedures for a Hearing under Section 504 of the Rehabilitation Act of 1973

(1) The parent or guardian of a qualified student with a disability under section 504 may file a written request for a hearing with the State Superintendent of Public Instruction with respect to actions regarding the identification, evaluation, provision of a free appropriate education, or education placement of the student with the disability under Section 504, which the parent or guardian alleges to be in violation of Section 504 of the Rehabilitation Act of 1973, Public Law 93-112, or any amendment thereof. In such event, the Superintendent will conduct a hearing.

(2) The school district involved in the hearing is responsible for the costs of the hearing.

(3) The prehearing and hearing procedures in OAR 581-015-2340 through 581-015-2383 apply to hearings conducted under Section 504 of the Rehabilitation Act.

(4) The parties are entitled to the procedural rights under OAR 581-015-2360 with the exceptions of the stay-put provision and the right to obtain at no cost a written or electronic verbatim record of the hearing, both of which do not apply to a hearing under this rule.

(5) Nothing in this rule is meant to prevent the parties from also seeking due process remedies under the Individuals with Disabilities Education Act as set forth in OAR 581-015-2340 through 581-015-2385.

Stat. Auth.: ORS 326, 343.055

Stats. Implemented: ORS 343.041

Hist.: EB 7-1987(Temp), f. & ef. 5-11-87; EB 24-1988, f. & cert. ef. 5-24-88; EB 24-1990, f. & cert. ef. 5-18-90; EB 9-1993, f. & cert. ef. 3-25-93; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03; Renumbered from 581-015-0109, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2400

Definitions

For the purposes of OAR 581-015-2400 through 581-015-2445, the following definitions apply:

(1) “Behavioral intervention plan” means an individualized plan, including positive interventions, designed to assist a student to decrease inappropriate behavior and increase or teach an alternative appropriate behavior.

(2) “Current educational placement” means the type of educational placement of the child as described in the child’s “annual determination of placement” document at the time of the disciplinary removal. It does not mean the specific location or school but the type of placement on the continuum of placement options (e.g. regular classroom with support; regular classroom with resource room support; special class; special school; home instruction, etc.).

(3) “Disciplinary removal” means suspension, expulsion, or other removal from school for disciplinary reasons, including removals for mental health examinations for students who threaten violence or harm in public schools under ORS 339.250(4)(b)(C). It does not include:

(a) Removals by other agencies;

(b) Removals for public health reasons (e.g. head lice, immunizations, communicable diseases, etc.);

(c) In-school suspensions if the child continues to have access to the general curriculum and to special education and related services as described in the child’s IEP, and continues to participate

with children without disabilities to the extent they would in their current placement; or

(d) Bus suspensions, unless the student’s IEP includes transportation as a related service, the district makes no alternative transportation arrangements for the student, and the student does not attend school as a result of the bus suspension.

(4) “Functional behavioral assessment” means an individualized assessment of the student that results in a hypothesis about the function of a student’s behavior and, as appropriate, recommendations for a behavior intervention plan.

(5) “Suspension” means any disciplinary removal other than expulsion.

Stat. Auth.: ORS 343.041, 343.045 & 343.155

Stats. Implemented: ORS 343.155

Hist.: ODE 35-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0550, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 26-2008, f. 10-23-08, cert. ef. 10-24-08

581-015-2405

Disciplinary Removals for Up to 10 School Days for Children with Disabilities

(1) School districts may remove a child with a disability who violates a code of student conduct from the child’s current educational placement to an appropriate interim alternative educational setting, another setting, or suspension, for up to ten school days in a school year to the same extent, and with the same notice, as for children without disabilities. These removals are not considered a change in placement.

(2) During disciplinary removals described in section (1) of this rule:

(a) School districts are not required to provide access to special education and the general curriculum unless students without disabilities are provided access during this time.

(b) School districts are not required to determine whether the child’s behavior resulting in disciplinary removal is a manifestation of the child’s disability.

(3) For the purpose of counting days of suspensions under OAR 581-015-2405 through 581-015-2445:

(a) Suspensions of a half day or less are counted as a half day; and

(b) Suspensions of more than a half-day are counted as a whole day.

(4) For the purposes of determining “current educational placement” in subsection (1) of this rule:

(a) Children who received special education services in another state and are found eligible for special education in Oregon are treated as initially placed in special education in Oregon, and any days of suspension accrued in the former state are not counted toward the ten days.

(b) For children who move from one school district to another school district in Oregon, any days of suspension from the former district carry over to the new school district unless the school district does not have actual knowledge of the previous suspensions.

Stat. Auth.: ORS 343.041, 343.045 & 343.155

Stats. Implemented: ORS 343.155, 34 CFR 300.530

Hist.: ODE 35-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0551, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2410

Additional Disciplinary Removals of Up to 10 School Days Each (No Pattern)

(1) School districts may remove a child with a disability who violates a code of student conduct from the child’s current educational placement to an appropriate interim alternative educational setting, another setting, or suspension for additional periods of up to ten school days in a school year to the same extent, and with the same notice, as for children without disabilities, if the removals do not constitute a pattern under section (2) of this rule. These removals are not considered a change in placement.

(2) School personnel must determine, on a case-by-case basis, whether the series of removals constitute a pattern:

(a) Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and

(b) Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of removals to one another.

(3) Services. During removals described in section (1) of this rule:

(a) School districts must provide services that are necessary to enable the child:

(A) To continue to participate in the general education curriculum, although in another setting; and

(B) To progress toward meeting the goals in the child's IEP.

(b) School personnel, in consultation with at least one of the child's teachers, determine the extent to which the services described in subsection (3)(a) of this rule are needed, and the location for delivery of those services.

(c) School districts are not required to determine whether the behavior resulting in removal is a manifestation of the child's disability.

(4) The determination in subsection (2) is subject to review under OAR 581-015-2445.

Stat. Auth.: ORS 343.041, 343.045 & 343.155;

Stats. Implemented: ORS 343.155, 34 CFR 300.530, 300.536

Hist.: ODE 35-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0552, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2415

Disciplinary Removals of More than 10 School Days (Pattern or Consecutive)

(1) A disciplinary removal is considered a change in educational placement and the school district must follow special education due process procedures if:

(a) The removal will be for more than 10 consecutive school days (e.g. expulsion); or

(b) The child will be removed for more than 10 cumulative school days from their current educational placement in a school year, and those removals constitute a pattern under OAR 581-015-2410(2).

(2) School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a disciplinary removal under subsection (1) for a child with a disability who violates a code of conduct.

(3) Manifestation determination. Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the school district must determine whether the child's behavior is a manifestation of the student's disability in accordance with OAR 581-015-2420.

(4) Manifestation. If the determination under subsection (3) is that the child's behavior is a manifestation of the child's disability, the school district must:

(a) Return the child to the placement from which the child was removed, unless:

(A) The parent and school district agree to a change of placement as part of the modification of the behavioral intervention plan under subsection (4)(b);

(B) The school district removes the child to an interim alternative educational setting under OAR 581-015-2425 for a weapons or drug violation or for infliction of serious bodily injury; or

(C) The school district obtains an order from an administrative law judge under OAR 581-015-2430 allowing a change in placement to an interim alternative educational setting for injurious behavior; and

(b) Either:

(A) Conduct a functional behavioral assessment, unless the school district conducted a functional behavioral assessment before the behavior occurred that prompted the disciplinary action, and implement a behavior intervention plan; or

(B) If the student already has a behavior plan, review the behavioral intervention plan and modify it, as necessary, to address the behavior.

(5) No manifestation. If the determination under subsection (3) is that the child's behavior is not a manifestation of the child's disability:

(a) The school district may proceed with disciplinary action applicable to children without disabilities under section (1) of this rule, in the same manner and for the same duration in which the procedures would be applied to children without disabilities.

(b) If the school district takes such action applicable to all children, the school district must:

(A) On the date on which the decision is made to remove the student under subsection (5), notify the parents of that decision and provide the parents with notice of procedural safeguards under OAR 581-015-2315.

(B) Provide services to the student in an interim alternative educational setting, determined by the IEP team, in accordance with OAR 581-015-2435; and

(C) Provide, as appropriate, a functional behavioral assessment, and behavior intervention services and modifications that are designed to address the behavior violation so that it does not recur.

(6) Placement pending due process hearing. If a parent requests a due process hearing because of a disagreement with the manifestation determination or any decision about placement related to the disciplinary removal in section (1) of this rule, the child remains in the interim alternative educational setting pending the decision of the administrative law judge under OAR 581-015-2445, or until the end of the disciplinary removal under subsection (1), whichever occurs first, unless the parent and school district agree otherwise.

Stat. Auth.: ORS 343.041, 343.045 & 343.155

Stats. Implemented: ORS 343.155, 34 CFR 300.504(a)(3), 300.530, 300.531, 300.532, 300.533

Hist.: ODE 35-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0553, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2420

Manifestation Determination

(1) In determining whether the child's behavior is a manifestation of the child's disability, the school district, the parent, and relevant members of the IEP team (as determined by the parent and the district) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:

(a) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or

(b) If the conduct in question was the direct result of the school district's failure to implement the IEP.

(2) If the school district, the parent, and relevant members of the IEP team determine that either subsection (1)(a) or (b) is applicable for the child, the conduct must be determined to be a manifestation of the child's disability.

(3) If the basis for the team's determination is that the school district did not implement the child's IEP, the school district must take immediate steps to remedy those deficiencies.

Stat. Auth.: ORS 343.041, 343.045 & 343.155;

Stats. Implemented: ORS 343.155, 34 CFR 300.530(e)

Hist.: ODE 35-1999, f. 12-13-99, cert. ef. 12-14-99; Renumbered from 581-015-0554, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2425

Removal to an Interim Alternative Educational Setting by School District

(1) Definitions:

(a) "Drug" means illegal drug or controlled substance but does not include a substance that is legally possessed or used under the supervision of a licensed health-care professional or otherwise legally possessed. It does not include alcohol or tobacco.

(b) "Drug violation" means the use, possession, sale or solicitation of drugs at school or a school function.

(c) "Serious bodily injury" means bodily injury, which involves substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

(d) “Weapon” means a weapon, device, instrument, material or substance, animate or inanimate, that is used for, or is readily capable of causing death or serious bodily injury, except that it does not include a pocket knife with a blade of less than 2 1/2 inches in length.

(e) “Weapon violation” means carrying a weapon to school or to a school function or acquiring a weapon at school.

(2) School districts may remove a child with disabilities from their current educational placement to an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, but for not more than 45 school days in a school year without regard to whether the behavior is determined to be a manifestation of the child’s disability for:

(a) A drug or weapon violation as defined in subsection (1); or

(b) If the child has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the Department or a school district.

(3) A removal for a drug or weapon violation, or for inflicting serious bodily injury, is considered a change in placement.

(4) School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a removal under subsection (2) for a child with a disability who violates a code of conduct.

(5) For removals described in subsection (2) of this rule, school districts must:

(a) On the date on which the decision is made to remove the student under subsection (2), notify the parents of that decision and provide the parents with notice of procedural safeguards under OAR 581-015-2315;

(b) Provide the services to the student in an interim alternative educational setting, determined by the IEP team, in accordance with OAR 581-015-2435;

(c) Within 10 school days of any decision to remove a child under subsection (2), determine whether the child’s behavior is a manifestation of the child’s disability in accordance with OAR 581-015-2420; and

(d) Provide, as appropriate, a functional behavioral assessment, and behavior intervention services and modifications that are designed to address the behavior violation so that it does not recur.

(6) Placement pending due process hearing. If a parent requests a due process hearing because of a disagreement with the manifestation determination, removal to the interim alternative educational setting, or any decision about placement related to a disciplinary removal under section (2) of this rule, the child remains in the interim alternative educational setting pending the decision of the administrative law judge under OAR 581-015-2445, or until the end of the removal under section (2), whichever occurs first, unless the parent and school district agree otherwise.

Stat. Auth.: ORS 343.041, 343.045 & 343.155

Stats. Implemented: ORS 343.155, 34 CFR 300.504(a)(3), 300.530; 300.533, 300.536

Hist.: ODE 35-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0555, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 29-2012, f. 11-7-12, cert. ef. 11-9-12

581-015-2430

Removal to an Interim Alternative Educational Setting by Administrative Law Judge (Injurious Behavior)

(1) “Injurious behavior” means behavior that is substantially likely to result in injury to the child or to others.

(2) School districts may request an expedited due process hearing under OAR 581-015-2445 to obtain an order from an administrative law judge to order a change in placement of the child to an interim alternative educational setting for not more than 45 school days for injurious behavior.

(3) The interim alternative educational setting must meet the requirements of OAR 581-015-2435(2).

(4) The procedures in subsection (2) may be repeated if the school district believes that returning the child to the original placement is substantially likely to result in injurious behavior.

(5) Nothing in this rule precludes a school district from seeking a court order to remove a child from the child’s current educational placement to another placement if the district believes that the maintaining the child in the child’s current educational placement is substantially likely to result in injurious behavior.

Stat. Auth.: ORS 343.041, 343.045 & 343.155

Stats. Implemented: ORS 343.155, 34 CFR 300.532

Hist.: ODE 35-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0556, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2435

Requirements of an Interim Alternative Educational Setting

An interim alternative educational setting under OAR 581-015-2415 and 581-015-2425 must:

(1) Be determined by the child’s IEP team; and

(2) Enable the child to:

(a) Continue to participate in the general curriculum, although in another setting; and

(b) Progress toward achieving the goals in the child’s IEP.

Stat. Auth.: ORS 343.041, 343.045, 343.155

Stats. Implemented: ORS 343.155, 34 CFR 300.530

Hist.: ODE 35-1999, f. 12-13-99, cert. ef. 12-14-99; Renumbered from 581-015-0557, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2440

Protections for Children Not Yet Eligible for Special Education

(1) The provisions of OAR 581-015-2400 through 581-015-2435 apply to children not yet identified as children with disabilities if the school district had knowledge that the child was a child with a disability.

(2) For the purposes of subsection (1) of this rule, a school district “had knowledge” if, before the behavior that precipitated the disciplinary action occurred:

(a) The parent of the child expressed a concern in writing to supervisory or administrative school personnel, or a teacher of the child, that the child is in need of special education and related services;

(b) The parent of the child requested a special education evaluation of the child; or

(c) The teacher of the child, or other school personnel, expressed specific concerns about a pattern of behavior demonstrated by the child directly to the school district’s director of special education or other supervisory personnel of the district.

(3) Notwithstanding subsections (1) and (2) of this rule, a school district will not be considered to have had knowledge that the child was a child with a disability if:

(a) The parent of the child has not allowed an evaluation of the child or has refused services under OAR 581-015-2090;

(b) The child has been evaluated in accordance with OAR 581-015-2090–581-015-2180, and the child was determined not eligible; or

(c) The parent or adult student has revoked consent for the continued provision of special education and related services pursuant to OAR 581-015-2090(4)(a)(B) or 581-015-2735(4)(a)(B).

(4) If the school district did not have knowledge before taking disciplinary action against the child, the district may take the same disciplinary actions as applied to children without disabilities who engaged in comparable behaviors. However:

(a) If a special education evaluation is requested or if the school district initiates a special education evaluation, the evaluation must be conducted in an expedited manner.

(b) Until the evaluation is completed, the child remains in the educational placement determined by school personnel, which can include suspension, expulsion, or placement in alternative education under OAR 581-021-0071.

(c) If, on completion of the evaluation, the child is determined to be a child with a disability, the school district must conduct an IEP meeting to develop an IEP and determine placement and must provide special education and related services.

(d) The provisions of OAR 581-015-2400–581-015-2435 and 581-015-2445 apply beginning on the date of the eligibility determination.

Stat. Auth.: ORS 343.041, 343.045 & 343.155

Stats. Implemented: ORS 343.155, 34 CFR 300.534

Hist.: ODE 35-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0558, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 13-2009, f. & cert. ef. 12-10-09

581-015-2445

Expedited Due Process Hearings

(1) An expedited due process hearing must be held if a hearing is requested under OAR 581-015-2345 because:

(a) In a dispute over a disciplinary action for a child with a disability, the child's parent disagrees with a determination that the child's behavior was not a manifestation of the child's disability or with any decision regarding the child's educational placement; or

(b) The school district believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

(2) Expedited due process hearings must meet the requirements of OAR 581-015-2340 through 581-015-2385; except that:

(a) Unless the parents and school district agree in writing to waive the resolution meeting in OAR 581-015-2355 or agree to use the mediation process in 581-015-2335:

(A) A resolution meeting must occur within seven days of receiving notice of the due process hearing request; and

(B) The hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of the receipt of the due process hearing request.

(b) The expedited hearing must occur within 20 school days of the date the hearing is requested and must result in a written decision within 10 school days after the hearing.

Stat. Auth.: ORS 343.041, 343.045 & 343.155

Stats. Implemented: ORS 343.155, 34 CFR 300.532

Hist.: ODE 35-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0559, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2450

Definitions

For the purposes of OAR 581-015-2450 through 581-015-2515, the following definitions apply:

(1) "Enrolled in a public school or ECSE program" means enrolled in, attending, and, for children ages 7 to 18, not exempt from compulsory school attendance as a private school student.

(2) "IDEA funds" means federal funds allocated to the public agency under the Individuals with Disabilities Education Act.

(3) "Private school child with a disability" means a child with a disability or preschool child with a disability aged 3 to school-age who has been enrolled by a parent in a private school or facility, and who, if aged 7 to 18, is exempt from compulsory school attendance under ORS 339.115.

(a) This term includes school-age children who are exempt from compulsory school attendance under ORS 339.115, even if a school district permits the student to attend one or more classes pursuant to a district policy permitting partial enrollment.

(b) This term does not include:

(A) Children three years of age until the age of eligibility for public school who can be provided a free appropriate public education in a private preschool or child care setting selected and paid for by their parents; or

(B) Children who are exempt from compulsory school attendance under ORS 339.115 as a home schooled student; or

(C) Children who are not of compulsory school attendance age who have rejected public agency services but who are not attending a private school; or

(D) Children who are placed in a private school by the public agency.

(4) "Private school" means a private elementary or secondary school or facility, including a private religious school. A preschool is considered a private school under this provision only if it is part of a private elementary or secondary school.

(4) "Public agency" means:

(a) For school-aged children, the school district where the private elementary or secondary school is located; and

(b) For children aged 3 up to school-age, the EI/ECSE contractor where the private elementary school or secondary school is located.

(5) "Services plan" means a written statement that describes the special education and related services the school district will provide to a parentally-placed private school child with a disability who has been designated to receive services, including the location of services and any transportation necessary, consistent with OAR 581-015-2460. Unlike an IEP or IFSP, a service plan does not need to provide a free appropriate public education.

Stat. Auth.: ORS 343.041, 343.045, 343.055

Stats. Implemented: ORS 343.055, 34 CFR 300.133

Hist.: ODE 16-2000, f. & cert. ef. 5-23-00; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03; Renumbered from 581-015-0705, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2455

Provision of services for Private School Children with Disabilities

(1) Each public agency must provide for participation in special education and related services to private school children with disabilities who are enrolled in private schools located within the school district boundaries, to the extent consistent with the number and location of these children.

(2) No private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school

(3) Decisions about the services that will be provided to private school children with disabilities must be made in accordance with OAR 581-015-2460 and 581-015-2480.

(4) Special education and related services provided to private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public agency, except that private school teachers providing equitable services to private school children with disabilities do not have to meet the highly qualified special education teacher requirements.

(5) Special education and related services must be provided to private school children with disabilities by employees of the public agency or through contract by the public agency with an individual, association, agency, organization, or other entity.

(6) Private school children with disabilities may receive a different amount of services than children with disabilities in public schools.

(7) Special education and related services may be provided to parentally-placed private school children on the premises of private, including religious, schools, to the extent consistent with law.

(8) Special education and related services provided to parentally-placed private school children with disabilities, including materials and equipment, must be secular, neutral and nonideological.

Stat. Auth.: ORS 343.041, 343.045, 343.055

Stats. Implemented: ORS 343.155, 34 CFR 300.132, 300.137, 300.138, 300.139

Hist.: IEB 28-1978, f. & ef. 7-20-78; IEB 25-1980, f. & ef. 11-7-80; EB 12-1995, f. & cert. ef. 5-25-95; ODE 16-2000, f. & cert. ef. 5-23-00; ODE 30-2000, f. & cert. ef. 12-11-00; Renumbered from 581-015-0166, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2460

Services Plan

(1) If a child with a disability is enrolled by a parent in private school and will receive special education or related services from a public agency, the public agency must:

(a) Initiate and conduct meetings to develop, review and revise a services plan for the child in accordance with subsection (3); and

(b) Ensure that a representative of the child's private school attends each meeting. If the representative cannot attend, the public agency must use other methods to ensure participation by the private school, including individual or conference telephone calls.

(2) The services plan must describe the specific special education and related services that the public agency will provide to the child in light of the services that the public agency has determined, through the consultation process described in OAR 581-015-2480, it will make available to private school children with disabilities.

(3) The services plan must, to the extent appropriate:

(a) Meet the requirements of OAR 581-015-2200 with respect to the services provided; and

(b) Be developed reviewed and revised consistent with OARs 581-015-2190 through 581-015-2210 and 581-015-2220(2) and (3).

(4) Transportation:

(a) Public agencies are not required to provide transportation from the child's home to the private school.

(b) If necessary for the child to benefit from or participate in the services provided by the public agency, the public agency must provide transportation to the child:

(A) From the child's school or the child's home to a site other than the private school; and

(B) From the service site to the private school, or to the child's home, depending on the timing of the services.

Stat. Auth.: ORS 343.041, 343.045, 343.055;

Stats. Implemented: ORS 343.155, 34 CFR 300.137 & 139

Hist.: IEB 28-1978, f. & ef. 7-20-78; EB 11-1995, f. & cert. ef. 5-25-95; ODE 16-2000, f. & cert. ef. 5-23-00; Renumbered from 581-015-0151, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2465

Documentation Requirements

Each public agency must maintain in its records and provide annually to the Department the following information for parentally-placed private school children:

(1) The number of parentally-placed private school children evaluated;

(2) The number determined to be children with disabilities, and

(3) The number of children served.

Stat. Auth.: ORS 343.041, 343.045 & 343.055

Stats. Implemented: ORS 343.155, 34 CFR 300.132

Hist.: ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2470

Expenditures for Parentally-Placed Private School Children

(1) Formulas for determining funds available for provision of special education and related services to private school children with disabilities:

(a) For school-age children: Each school district must spend an amount that is the same proportion of the school district's total subgrant of IDEA funds as the number of school-age private school children with disabilities who are enrolled by their parents in private schools located within the boundaries of the school district is to the total number of school-age children with disabilities in its jurisdiction.

(b) For private school children with disabilities aged 3 up to school-age, the EI/ECSE contractor must spend:

(A) An amount that is the same proportion of the contractor's total IDEA fund subgrant under section 611(f) for ECSE children as the number of ECSE private school children with disabilities who are enrolled by their parents in private schools located within the boundaries of the ECSE service area is to the total number of ECSE children with disabilities in the service area; and

(B) An amount that is the same proportion of the contractor's total IDEA fund subgrant under section 619(g) as the number of ECSE private school children with disabilities who are enrolled by their parents in private schools located within the boundaries of the ECSE service area is to the total number of ECSE children with disabilities in the service area.

(2) If a public agency has not expended for equitable services all of the proportionate funds designated for that purpose by the end of the fiscal year the IDEA funds were appropriated, the public agency must obligate the remaining funds for special education and related services to parentally-placed private school children with disabilities for a carry-over period of one additional year.

(3) Expenditures for child find activities described in OAR 581-015-2085 may not be considered in determining whether the public agency has met the requirements of section (1).

(4) A public agency is neither required to or prohibited from providing services to private school children with disabilities in

excess of those required by this part, consistent with State law or local policy. State and local funds must not supplant the proportionate amount of federal funds required to be expended under subsection (1).

(5) The cost of the transportation described in OAR 581-015-2460(4)(b) may be included in calculating whether the public agency has met the requirement of section (1) of this rule.

Stat. Auth.: ORS 343.041, 343.045, 343.055, 343.157,

Stats. Implemented: ORS 343.055, 34 CFR 300.133 & 139

Hist.: ODE 16-2000, f. & cert. ef. 5-23-00; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03; Renumbered from 581-015-0706, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2475

Private School Child Count

Each public agency must:

(1) After timely and meaningful consultation with representatives of private school children consistent with OAR 581-015-2480, determine the number of private school children with disabilities attending private schools located within the boundaries of the public agency;

(2) Conduct the count on December 1 of each year; and

(3) Use the count to determine the amount that the public agency will spend on providing special education and related services to private school children with disabilities in the next fiscal year.

Stat. Auth.: ORS 343.055, 343.157;

Stats. Implemented: ORS 343.055, 34 CFR 300.133

Hist.: ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2480

Consultation with Representatives of Private School Children with Disabilities

(1) To ensure timely and meaningful consultation, public agencies must consult with representatives of private school children with disabilities during the design and development of special education and related services for the children, including regarding:

(a) The child find process, including how private school children suspected of having a disability can participate equitably, and how parents, teachers, and private school officials will be informed of the process;

(b) The determination of the proportionate share of IDEA funds available to serve private school children with disabilities, including the determination of how the proportionate share of funds was calculated;

(c) The consultation process among the public agency and representatives of private school children with disabilities, including how such process will operate throughout the school year to ensure that private school children with disabilities identified through the child find process can meaningfully participate in special education and related services;

(d) How, where and by whom special education and related services will be provided for private school children with disabilities, including a discussion of the types of services (including direct services and alternate service delivery mechanisms), how such services will be apportioned if funds are insufficient to serve all children, and how and when these decisions will be made; and

(e) How, if the public agency disagrees with the views of private school officials on the provision of services or the types of services (whether provided directly or through a contract), the public agency will provide to the private school officials a written explanation of the reasons why the public agency chose not to provide services directly or through a contract.

(2) For the purposes of this rule, "representatives of private school children with disabilities" means representatives of parents of private school children with disabilities and private school officials or other private school representatives.

(3) The public agency makes the final decisions with respect to the services to be provided to eligible private school children.

Stat. Auth.: ORS 343.041, 343.045, 343.055;

Stats. Implemented: ORS 343.041, 343.055 & 34 CFR 300.134 & 137

Hist.: IEB 28-1978, f. & ef. 7-20-78; EB 13-1995, f. & cert. ef. 5-25-95; ODE 16-2000, f. & cert. ef. 5-23-00; Renumbered from 581-015-0171, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2483

Written Affirmation

(1) When timely and meaningful consultation has occurred as described in OAR 581-015-2480, the public agency must obtain a written affirmation signed by the representatives of participating private schools.

(2) If the representatives do not provide the affirmations within a reasonable period of time, the school district must forward the documentation of the consultation process to the Department.

Stat. Auth.: ORS 343.041, 343.045, 343.055;

Stats. Implemented: ORS 343.041, 343.055 & 34 CFR 300.135

Hist.: ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2485

Complaint by Private School Official

(1) A private school official may submit a complaint to the Department under OAR 581-015-2030 that the public agency did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the private school official.

(a) If the private school official wishes to submit a complaint, the official must provide the basis of the noncompliance by the public agency to the Department, and the public agency must forward the appropriate documentation to the Department.

(b) If the private school official is dissatisfied with the decision of the Department, the official may submit a complaint to the United States Secretary of Education by providing the basis of the noncompliance by the public agency to the Secretary, and the Department will forward the appropriate documentation to the Secretary.

(2) For the purposes of this rule, a "private school official" is an administrator of the private school.

Stat. Auth.: ORS 343.041, 343.045, 343.055

Stats. Implemented: ORS 343.055, 34 CFR 300.136

Hist.: ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2490

Complaints and Due Process Hearings for Private School Children

(1) Due process hearing procedures do not apply to complaints that a public agency has failed to meet the requirements relating to the provision of services to and expenditures for private school children, including the provision of services indicated on the child's services plan.

(2) Due process hearing procedures do apply to complaints that a public agency has failed to meet the child find requirements, including the requirements regarding evaluation, determination of eligibility for special education services, and reevaluation. Any due process hearing request regarding the child find requirements must be filed with the public agency in which the private school is located and with the Department under OAR 581-015-2345.

(3) Complaints that a public agency has failed to meet any of the requirements related to private school children may be filed under OAR 581-015-2030.

Stat. Auth.: ORS 343.055, 343.155

Stats. Implemented: ORS 343.055, 34 CFR 300.140

Hist.: ODE 16-2000, f. & cert. ef. 5-23-00; Renumbered from 581-015-0707, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2495

Funds and Property Not to Benefit Private Schools

(1) A public agency may not use IDEA funds to finance the existing level of instruction in a private school or to otherwise benefit the private school.

(2) The public agency must use IDEA funds to meet the special education needs of students enrolled in private schools, but not for:

(a) The needs of a private school; or

(b) The general needs of the students enrolled in the private school.

Stat. Auth.: ORS 343.041, 343.045, 343.055

Stats. Implemented: ORS 343.155, 34 CFR 300.141

Hist.: 1EB 28-1978, f. & ef. 7-20-78; EB 11-1995, f. & cert. ef. 5-25-95; ODE 16-2000, f. & cert. ef. 5-23-00; Renumbered from 581-015-0196, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2500

Use of Personnel

(1) A public agency may use IDEA funds to make public agency personnel available in other than public facilities:

(a) To the extent necessary to implement any of the requirements related to private school children with disabilities; and

(b) If those services are not normally provided by the private school.

(2) A public agency may use IDEA funds to pay for the services of an employee of a private school to provide services to private school children if:

(a) The employee performs the services outside of his or her regular hours of duty; and

(b) The employee performs the services under public supervision and control.

Stat. Auth.: ORS 343.055

Stats. Implemented: ORS 343.055, 34 CFR 300.142

Hist.: ODE 16-2000, f. & cert. ef. 5-23-00; Renumbered from 581-015-0708, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2505

Separate Classes Prohibited

A public agency may not use IDEA funds for classes that are organized separately on the basis of school enrollment or religion of the students if:

(1) The classes are at the same site; and

(2) The classes include students enrolled in public schools or ECSE programs and students enrolled in private schools.

Stat. Auth.: ORS 343.041, 343.045, 343.055

Stats. Implemented: ORS 659.150; 34 CFR 300.143

Hist.: 1EB 28-1978, f. & ef. 7-20-78; EB 11-1995, f. & cert. ef. 5-25-95; ODE 16-2000, f. & cert. ef. 5-23-00; Renumbered from 581-015-0191, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2510

Property, Equipment, and Supplies

(1) A public agency must keep title to and exercise continuing administrative control of all property, equipment and supplies that the public agency acquires with IDEA funds for the benefit of private school children with disabilities.

(2) The public agency may place equipment and supplies in a private school for a period of time needed to implement the services plan of a private school child with disabilities or for child find purposes.

(3) The public agency must ensure that the equipment and supplies placed in a private school:

(a) Are used only for the purposes identified in section (2); and

(b) Can be removed from the private school without remodeling the private school facility.

(4) The public agency must remove equipment and supplies from a private school if:

(a) The equipment and supplies are no longer needed for the purposes identified in section (2); or

(b) Removal is necessary to avoid unauthorized use of the equipment and supplies.

(5) IDEA funds must not be used for repairs, minor remodeling, or construction of private school facilities.

Stat. Auth.: ORS 343.041, 343.045, 343.055

Stats. Implemented: ORS 343.055, 34 CFR 300.144

Hist.: 1EB 28-1978, f. & ef. 7-20-78; EB 11-1995, f. & cert. ef. 5-25-95; ODE 16-2000, f. & cert. ef. 5-23-00; Renumbered from 581-015-0186, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2515

Reimbursement for Private Placement

(1) If a private school child with a disability has available a free appropriate public education and the parents choose to place the child in a private school, the public agency is not required to pay for the cost of the child's education, including special education and related services, at the private school. However, the public

agency must include that child in the population whose needs are addressed as parentally-placed private school children consistent with OAR 581-015-2475.

(2) Disagreements between a parent and a public agency regarding the availability of a program appropriate for the child and the question of financial responsibility are subject to the due process procedures under OAR 581-015-2340 through 581-015-2385.

(3) If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private preschool, elementary, or secondary school without the consent of or referral by the public agency, a court or an administrative law judge may require the agency to reimburse the parents for the cost of that enrollment if the court or administrative law judge finds that the agency had not made a free appropriate public education (FAPE) available to the child in a timely manner before that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by an administrative law judge or a court even if it does not meet the State standards that apply to education provided by public agencies.

(4) The cost of reimbursement described in paragraph (3) of this section may be reduced or denied if:

(a) At the most recent IEP or IFSP meeting that the parents attended before removal of the child from the public school or ECSE program, the parents did not inform the IEP or IFSP team that they were rejecting the placement proposed by the public agency to provide FAPE to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or

(b) At least ten business days (including any holidays that occur on a business day) before the removal of the child from the public school or ECSE program, the parents did not give written notice to the public agency of the information described in paragraph (4)(a) of this rule.

(5) The cost of reimbursement described in paragraph (3) of this section may also be reduced or denied if:

(a) Before the parents' removal of the child from the public school or ECSE program, the public agency informed the parents, through the notice requirements of OAR 581-015-2310, of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for the evaluation; or

(b) Upon a judicial finding of unreasonableness with respect to actions taken by the parents.

(6) Notwithstanding the notice requirement in paragraph (4), the cost of reimbursement:

(a) Must not be reduced or denied for failure to provide the notice if:

(A) Compliance with paragraph (4) would likely result in physical harm to the child;

(B) The public agency prevented the parent from providing the notice; or

(C) The parents had not received notice of procedural safeguards under OAR 581-015-2315 informing them of this notice requirement; and

(b) May, in the discretion of a court or an administrative law judge, not be reduced or denied for failure to provide such notice if:

(A) The parent is illiterate and cannot write in English; or

(B) Compliance with paragraph (4) would likely result in serious emotional harm to the child.

Stat. Auth.: ORS 343.041, 343.045, 343.055, 343.155

Stats. Implemented: ORS 343.155, 34 CFR 300.148

Hist.: 1EB 28-1978, f. & ef. 7-20-78; EB 11-1995, f. & cert. ef. 5-25-95; ODE 16-2000, f. & cert. ef. 5-23-00; Renumbered from 581-015-0156, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2530

Children with Disabilities under IDEA Enrolled in Public Benefits or Insurance

(1) A school district program may use the State's Medicaid or other public benefits or insurance programs in which a child participates to provide or pay for special education and related services required under IDEA and permitted under the public benefits or insurance program, as specified in subsection (2) below.

(2) With regard to services required to provide a free appropriate public education (FAPE) to a child with disabilities under IDEA, a school district.

(a) May not require parents to sign up for or enroll in public benefits or insurance programs in order for their child with disabilities to receive FAPE under the IDEA;

(b) May not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for special education and related services pursuant to IDEA, but may pay the cost that the parent otherwise would be required to pay; and

(c) May not use the child's benefits under a public insurance program if that use would:

(A) Decrease available lifetime coverage or any other insured benefit;

(B) Result in the family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the child outside of the time the child is in school;

(C) Increase premiums or lead to the discontinuation of insurance; or

(D) Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures; and

(3) Prior to accessing a child's or parent's public benefits or insurance for the first time, and after providing notification to the child's parents consistent with (4) below, the school district, must obtain written, parental consent that:

(a) Meets the requirements of the Family Education Rights and Privacy Act (34 CFR part 99) and the parental consent provisions in IDEA (34 CFR §300.622) requiring that consent state:

(A) the personally identifiable information that may be disclosed (e.g., records or information about the services that may be provided to a particular child);

(B) the purpose of the disclosure (e.g., billing for services under the Individuals with Disabilities Education Act (IDEA); and

(C) the agency to which the disclosure may be made (e.g., the State's public benefits or insurance program (e.g., Medicaid); and

(D) Specifies that the parent understands and agrees that the public agency may access the parent's or child's public benefits or insurance to pay for services under IDEA.

(4) Prior to accessing a child's or parent's public benefits or insurance for the first time, and annually thereafter, the school district must provide prior written notification, consistent with requirements of OAR 581-015-2310(4) and (5), to the child's parents, that includes:

(a) A statement of the parental consent provisions in paragraphs (3)(a)(A) and (B) above;

(b) A statement of the "no cost" provisions in paragraphs (2)(a) through (c) above.

(c) A statement that the parents have the right under the Family Education Rights and Privacy Act (FERPA) and IDEA, Part B, and OAR 581-015-2090 to withdraw their consent to disclosure of their child's personally identifiable information to the agency responsible for the administration of the State's public benefits or insurance program (e.g., Medicaid) at any time; and

(d) A statement that the withdrawal of consent or refusal to provide consent, pursuant to FERPA and IDEA, to disclose personally identifiable information to the agency responsible for the administration of the State's public benefits or insurance program (e.g., Medicaid) does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.

(5) Use of IDEA Part B funds.

(a) If a school district is unable to obtain parental consent to use the parents' public benefits or insurance when the parents would incur a cost for a specified service required to ensure a free appropriate public education, the district may use its Part B funds to pay for the service.

(b) To avoid financial cost to parents who otherwise would consent to use public benefits or insurance, the district may use its Part B funds to pay the cost the parents otherwise would have to pay to use the public insurance (e.g., the deductible or co-pay amounts).

(c) Proceeds from public benefits or insurance will not be treated as program income for purposes of 34 CFR 80.25.

(d) If a school district or ECSE program spends reimbursements from federal funds (e.g., Medicaid) for special education and related services, those funds will not be considered "state or local" funds for purposes of the maintenance of effort provisions pursuant to IDEA 34 CFR § 300.163 and 300.203.

(6) Construction. Nothing in this rule should be construed to alter the requirements imposed on a state Medicaid agency, or any other agency administering a public benefits or insurance program by federal statute, regulations or policy under title XIX, or title XXI of the Social Security Act, 42 U.S.C. 1396 through 1396v and 42 U.S.C. 1397 aa through 1397jj, or any other insurance program.

Stat. Auth.: ORS 343.041, 343.045 & 343.055

Stats. Implemented: ORS 343.045 & 343.155 & 34 CFR 300.154

Hist.: ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0607, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 11-2013(Temp), f. & cert. ef. 4-25-13 thru 10-21-13; ODE 12-2013, f. & cert. ef. 5-30-13

581-015-2535

Children with Disabilities Covered by Private Insurance

(1) With regard to services required to provide FAPE to a child with disabilities, a school district may access a parent's private insurance proceeds only if the parent provides informed consent consistent with this chapter.

(2) Each time the school district proposes to access the parent's private insurance proceeds, it must:

(a) Obtain parent consent in accordance with this rule; and

(b) Inform the parents that their refusal to permit the public agency to access their private insurance does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.

(3) IDEA funds:

(a) If a school district is unable to obtain parental consent to use the parent's private insurance, to ensure FAPE, the district may use its Part B funds to pay for the service.

(b) To avoid financial cost to parents who otherwise would consent to use private insurance, or public insurance if the parent would incur a cost, the school district may use its Part B funds to pay the cost the parents otherwise would have to pay to use the parent's insurance (e.g., the deductible or co-pay amounts).

(c) Proceeds from private insurance will not be treated as program income for purposes of 34 CFR 80.25.

Stat. Auth.: ORS 343.041, 343.045 & 343.055;

Stats. Implemented: ORS 343.164, 343.045, 343.155, 34 CFR 300.154

Hist.: ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0608, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2540

Definitions for Regional Programs

The following definitions apply to OAR 581-015-2545 through 581-015-2565 unless otherwise indicated by the context.

(1) "Administrative Unit" means the school district or ESD within each region chosen to operate the regional program through contract with the Department of Education.

(2) "Consultation services" means technical assistance to or conferring with the local education agency and staff or early intervention/early childhood special education providers and staff or families to assist them to provide services to eligible children.

(3) "Department" means the Oregon Department of Education.

(4) "Direct services" means services provided to the child by regional specialists.

(5) "Eligible children" means children with low-incidence, high need disabilities who need the services of the regional program.

(6) "Low incidence, high need disabilities" means one or more of the following categories under OAR 581-015-2130 through 581-015-2180: autism spectrum disorder, deafblindness, hearing impairment, orthopedic impairment, traumatic brain injury, and vision impairment.

(7) "Regional program" means direct or consultative services funded through the Department provided on a single or multi-county basis that assist school districts and early intervention/early childhood special education providers in meeting the unique needs of eligible children.

(8) "Services" means early intervention services, early childhood special education and/or related services, and special education and/or related services, as defined in OAR 581-015-2700 and 581-015-2000, respectively.

(9) "Superintendent" means the State Superintendent of Public Instruction.

Stat. Auth.: ORS 343.236

Stats. Implemented: ORS 343.236

Hist.: EB 27-1988, f. & cert. ef. 6-9-88; EB 10-1996, f. & cert. ef. 6-26-96; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03; Renumbered from 581-015-0291, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 39-2013, f. & cert. ef. 12-18-13

581-015-2545

Administration of Regional Programs

(1) The Superintendent may provide services to eligible children on a regional basis to the extent possible with funds allocated for this purpose:

(a) The Superintendent determines the number of regions and their boundaries;

(b) The Superintendent selects a local school district, education service district, and/or county school district to serve as the Administrative Unit in each region;

(c) The Superintendent may designate a Department employee to give general coordination to regional programs;

(d) The Superintendent may appoint an advisory committee to provide policy direction for regional programs. This committee reports to the State Board of Education through the regional program coordinator.

(2) The Administrative Unit provides general management to the regional program by:

(a) Preparing a regional plan that will include administrative structure, provision of direct and consultation services to eligible children, their families and staff, inservice activities, supervision of instruction, subcontracting and budget;

(b) Serving as fiscal agent for the region including arrangement of subcontracts; preparation of budgets for the receipt of local, state, and federal funds; provision of reports regarding child data, progress, and services; and the management of all fiscal functions including but not limited to, business services;

(c) Selecting, hiring, and directing regional employees using funds granted for that purpose and making employee benefits consistent with other district employees;

(d) Appointing a regional coordinator who will give general direction to the regional program and act as liaison to the Department; and

(e) Appointing a Regional Advisory Council to provide advice to the Administrative unit on program and policy direction.

(3) The Regional Advisory Council consists of seven to eleven members representing each county in the region. At least one person must represent each of the following categories:

(a) Superintendent of an education service district or local school district;

(b) Special education supervisor or teacher of an education service district or local school district;

(c) Individual who supervises or provides early intervention or early childhood special education services;

(d) Director on board of an education service district or local school district;

(e) Individual with a disability or parent of an eligible child.

(f) Regular education teacher or building administrator.

(4) The Administrative Unit governing board will request names from each education service district, school district, county school district, and early intervention and early childhood special education program in the area served by the regional program and make appointments to the council.

Stat. Auth.: ORS 343.236

Stats. Implemented: ORS 343.236

Hist.: EB 27-1988, f. & cert. ef. 6-9-88; EB 10-1996, f. & cert. ef. 6-26-96; Renumbered from 581-015-0292, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2550

Eligibility for Regional Services

(1) The determination of a child's eligibility for services as a child with autism spectrum disorder, deafblindness, hearing impairment, traumatic brain injury, orthopedic impairment, or vision impairment is the responsibility of:

(a) The resident school district for children who are at the age of eligibility for kindergarten through age 21 in accordance with OAR 581-015-2130 through 581-015-2180; or

(b) The designated referral and evaluation agency for children who are at the age of eligibility for:

(A) Early intervention, from birth until the age of three in accordance with OAR 581-015-2780; and

(B) Early childhood special education, from the age of three until eligible for kindergarten in accordance with OAR 581-015-2795.

(2) Regional programs may assist the local district or designated referral and evaluation agency in evaluating and/or determining eligibility when the local district or the designated referral and evaluation agency does not have a person trained and experienced in the area of the suspected disability(ies).

(3) A child who is found eligible for services as a child with autism spectrum disorder, deafblindness, hearing impairment, traumatic brain injury, or vision impairment may be eligible for regional services if the child needs regional program services.

(4) A child who is found eligible for services as a child with orthopedic impairment may be eligible for regional services if the child is determined to be orthopedically impaired by his/her eligibility team based on eligibility tool(s) approved by the Department, and needs regional program services.

Stat. Auth.: ORS 343.236

Stats. Implemented: ORS 343.236

Hist.: EB 27-1988, f. & cert. ef. 6-9-88; EB 10-1996, f. & cert. ef. 6-26-96; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03; Renumbered from 581-015-0293, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 39-2013, f. & cert. ef. 12-18-13

581-015-2555

Referral for Regional Services

In referring a child to the regional program, the district or early intervention/early childhood special education program must provide the regional coordinator with the following information:

(1) A request for regional services;

(2) A statement of a child's eligibility in one of the following categories, if previously determined: autism spectrum disorder; deafblindness, hearing impairment, orthopedic impairment, traumatic brain injury, vision impairment, and;

(3) Additional information as the regional coordinator or other regional program representative may request.

Stat. Auth.: ORS 343.236

Stats. Implemented: ORS 343.236

Hist.: EB 27-1988, f. & cert. ef. 6-9-88; EB 10-1996, f. & cert. ef. 6-26-96; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03; Renumbered from 581-015-0294, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 26-2008, f. 10-23-08, cert. ef. 10-24-08; ODE 39-2013, f. & cert. ef. 12-18-13

581-015-2560

Individualized Educational Program/Individualized Family Service Plan

(1) An eligible child must have an individualized educational plan (IEP) developed in accordance with OAR 581-015-2220 or an individualized family service plan (IFSP) in accordance with OAR 581-015-2815.

(2) The IEP/IFSP must be developed by an appropriately constituted team in accordance with OAR 581-015-2825 for preschool children, and 581-015-2210 for school-age children. A designated regional program staff must be included in the development of the IEP/IFSP.

(3) The IEP/IFSP serves as the basis for determining the child's unique developmental or educational needs and the extent and nature of services to be provided, including services provided by the regional program.

Stat. Auth.: ORS 343.236

Stats. Implemented: ORS 343.236

Hist.: EB 27-1988, f. & cert. ef. 6-9-88; EB 10-1996, f. & cert. ef. 6-26-96; Renumbered from 581-015-0295, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2565

Regional Program Services

(1) Pursuant to ORS 338, ORS 339, OAR 581-021-0019, and open enrollment under section 9, chapter 718, Oregon Laws 2011, the resident school district has the primary responsibility for the education of an eligible school age child, and is responsible for all costs beyond the fiscal capacity of the regional program that result from the full implementation of the child's IEP.

(2) The Department, through its contractors and subcontractors, has the primary responsibility for early intervention and early childhood special education services for eligible children from birth until eligible for kindergarten, and is responsible for all costs beyond the fiscal capacity of the regional program which result from full implementation of the child's IFSP.

(3) Eligible children may receive one or more of the following regional services based upon the child's needs according to the IEP or IFSP and available resources of the regional program and agreement of the resident school district or EI/ECSE contractor:

(a) Direct services to the child as determined in the IEP/IFSP by an itinerant specialist up to full-time instruction in a self-contained classroom operated by the regional program;

(b) Consultation to providers of the child's educational or early intervention/early childhood special education program and/or the parents;

(c) Participation in developing the student's IEP or IFSP;

(d) Recommendations for classroom activities, materials, equipment, adaptations and modifications to instruction, and/or assessment;

(e) Evaluation and interpretation of assessment information;

(f) Audiological management;

(g) Inservice for staff and parents; and

(h) Provision of certain related services.

(4) Teachers and therapists employed by the regional program to serve eligible children must hold the appropriate special education or appropriate state licensure.

(5) Regional programs must be in compliance with all applicable statutes and administrative rules pertaining to the education of children with disabilities.

Stat. Auth.: ORS 343.236

Stats. Implemented: ORS 343.236

Hist.: EB 27-1988, f. & cert. ef. 6-9-88; EB 10-1996, f. & cert. ef. 6-26-96; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0296, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 38-2014(Temp), f. & cert. ef. 9-3-14 thru 3-2-15; Administrative correction, 3-23-15; ODE 12-2015, f. & cert. ef. 7-15-15

581-015-2570

Definitions and Purposes of Long-Term Care and Treatment (LTCT) Programs

(1) Definitions in this rule apply to OARs 581-015-2570 to 581-015-2574:

(a) "Contracting school district" means the school district, the education service district, a program operated under the auspices of

the State Board of Higher Education, or a program operated under the auspices of the Oregon Health and Science University Board of Directors with which the Department of Education contracts for the provision of educational services.

(b) "Education program" means those activities provided under contract between a contracting school district and the Department of Education, which provide a public education to preschool or school-aged children placed by a public entity, private entity or by the child's parent in a Psychiatric Day Treatment program or a Psychiatric Residential Treatment Facility;

(c) "Intermediate care facility" is defined in ORS 442.015 (21);

(d) "Psychiatric Day Treatment Programs" are defined in OAR 309-032-1505(100);

(e) "Psychiatric Residential Treatment Facility" is defined in OAR 309-032-1505(101).

(f) "Resident district" means the resident district of a student as defined under ORS 339.133 and 339.134.

(g) "Public Entity" means the Oregon Department of Human Services (DHS), Oregon Health Authority (OHA), the Oregon Youth Authority (OYA), Oregon School District, or their designee.

(h) "Treatment program" means the long-term day or residential treatment services provided by a private nonprofit or public agency and provided under contract with a state agency or designee of the state agency. Intermediate care facilities are excluded from this definition.

(2) The purposes of the education program under OARs 581-015-2570 to 581-015-2574 are as follows:

(a) To serve children placed by a public entity, private entity or by the child's parent for needs other than educational;

(b) To serve children placed by a public entity, private entity or by the child's parent who require schooling in a protected environment in order to protect the health and safety of themselves and/or others; and

(c) To extend the treatment process into the school day to fully implement the treatment plans of children placed by a public entity, private entity or by the child's parent.

Stat. Auth. ORS 326.051 & 343.961

Stats. Implemented: ORS 343.961

Hist.: 1EB 23-1986, f. & ef. 7-14-86; EB 7-1988, f. & cert. ef. 1-15-88; EB 22-1990, f. & cert. ef. 5-18-90; EB 10-1991(Temp), f. & cert. ef. 7-15-91; EB 31-1991, f. & cert. ef. 12-18-91; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0044, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 34-2007, f. & cert. ef. 12-12-07; ODE 14-2009, f. & cert. ef. 12-10-09; ODE 15-2011, f. & cert. ef. 12-15-11

581-015-2571

Long-Term Care and Treatment (LTCT) Education Program Eligibility and Approval

(1) The Department of Education shall base education program eligibility on the following:

(a) An agency may offer several different treatment programs serving different populations. For the purposes of determining eligibility for funding and funding levels for education programs, each program will be considered separately. Temporary shelter programs, which would not otherwise meet the eligibility criteria provided in OAR 581-015-2571(1)(b), are eligible for funding only when attached to an eligible treatment program and the children served are primarily awaiting placement in such programs;

(b) To be eligible for an education program, a treatment program must submit an application to the Department's Long-Term Care and Treatment Program demonstrating that the program meets all of the following criteria:

(A) Either:

(i) A letter of approval from the Addictions and Mental Health Division certifying that the psychiatric day treatment program or psychiatric residential treatment facility meets standards applicable for intensive children's mental health services under OAR 309-022-0100 through 309-022-0230; or

(ii) Documentation that the program provides long-term residential treatment of children placed by a state agency or designee of the state agency;

(B) Meet state licensing requirements for a private child-caring agency;

(C) Be operated by a nonprofit corporation or a political subdivision of the state;

(D) Demonstrate through client admissions, staff hiring practices, and client access to services that it meets requirements for ORS 659.850 relating to the prevention of discrimination; and

(E) Demonstrate through curriculum content, teaching practices, and facilities management that the constitutional requirements regarding no religious entanglement are met.

(2) The Department of Education (ODE) is responsible for approving the educational program under this rule and shall base approval on the following:

(a) The contracting school district must ensure that the education program is operated in compliance with a written agreement with the Department that specifies, at a minimum, the following services to be provided:

(A) Each child who is not a child with a disability under OAR 581-015-2130 through 581-015-2180 has a personalized educational plan that includes assessment, goals, services, and timelines;

(B) Information pertaining to students and educational programs is provided to the Department in an accurate and timely manner;

(C) Children have opportunities to be educated in the least restrictive environment;

(D) The education program is developed and implemented in conjunction with the treatment program; and

(E) Other requirements as identified by the Department.

(b) The Department must ensure that the education program is operated in compliance with a written agreement with the contracting school district.

(c) Final determinations concerning the eligibility of treatment programs for education funding are at the discretion of the State Superintendent of Public Instruction.

(3) Funding Procedures: Upon receipt of an application for funding for a program under this rule, the Department of Education will:

(a) Determine if the treatment program meets the eligibility criteria in this rule within 45 business days;

(b) If necessary, request additional funding or a limitation for funding from the State Legislature; and

(c) Fund the program according to the formula in OAR 581-015-2572 only when sufficient funds are available for the program under ORS 343.243 and an appropriation from the General Fund as determined by the Department.

Stat. Auth. ORS 326.051 & 343.961

Stats. Implemented: ORS 343.243 & 343.961

Hist.: ODE 14-2009, f. & cert. ef. 12-10-09; ODE 15-2011, f. & cert. ef. 12-15-11; ODE 36-2014, f. & cert. ef. 6-27-14

581-015-2572

Long-Term Care and Treatment (LTCT) Education Program Funding Formula

(1) The Department of Education shall provide funding to LTCT education programs based on a Minimum Staffing Level (MSL) model. The MSL model is based on standard classroom staffing that addresses the educational and safety needs of the students and educational staff in eligible LTCT day and residential treatment program classrooms.

(2) The Department shall base the MSL model on a ratio of staff to students per classroom that is based upon:

(a) One teacher and two instructional assistants for up to 15 students per classroom.

(b) One teacher and three assistants for between 15-20 students per classroom.

(c) When there are more than 20 students in a classroom, the distribution may factor in opening an additional classroom staffed with one teacher and two additional assistants to bring the student number back to 10 students per classroom.

(d) Staffing levels may vary from this guideline for safety, student characteristics, or treatment needs and still meet the MSL standard as determined by the department.

(e) At the department's discretion up to 15.0 percent may be added to LTCT contracts to cover educational overhead costs such as indirect, administrative costs and other educational service related costs.

(3) If the total state funding available for all LTCT programs is less than the total state funding needed to fully fund each LTCT contract under the MSL model, the amount of state funding in each contract determined under paragraph (2) of this subsection will be prorated.

(4) LTCT education programs shall use the funding from the department based on the MSL model to implement the MSL model as described under paragraph (2) of this rule. Any variation in staff to student classroom ratios under the MSL model must be approved by the department.

(5) A special needs fund is established at the Oregon Department of Education which will be up to five percent of the total state monies made available for the LTCT program during a biennium:

(a) Individual applications may be made to the Department for this fund to cover unexpected, emergency expenses;

(b) Funds not utilized under this paragraph for the first year of the biennium will be carried forward by the Department to the next fiscal year and the remaining balance at the end of the biennium will be carried over as reserve funds into the next biennium.

Stat. Auth. ORS 326.051 & 343.961

Stats. Implemented: ORS 343.243 & 343.961

Hist.: ODE 14-2009, f. & cert. ef. 12-10-09; ODE 15-2011, f. & cert. ef. 12-15-11; ODE 19-2014, f. & cert. ef. 6-3-14; ODE 10-2015, f. & cert. ef. 7-13-15; ODE 16-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; Administrative correction, 4-29-16; ODE 45-2016, f. & cert. ef. 11-1-16

581-015-2573

Due Process Hearings for Long-Term Care and Treatment (LTCT) Education Programs

(1) The following shall apply to Due Process Hearings involving students attending education programs:

(a) The contracting school district is the "school district" for the purposes of carrying out the procedures required by OAR 581-015-2340 through 581-015-2385;

(b) The issues of the hearing do not include the placement by the public entity, private entity or its designee or by the child's parent for long-term treatment;

(c) Costs under OAR 581-015-2385(1)(a) that are in excess of the contracted educational program budget will be paid by the Oregon Department of Education;

(d) The Oregon Department of Education is a party to such proceedings and is responsible to provide additional educational services ordered by an administrative law judge that are beyond the scope of the written agreement between the Department and the contracting school district under OARs 581-015-2570 through 581-015-2574.

(2) The Department is not responsible for paying for transportation, care, treatment or medical expenses.

Stat. Auth. ORS 326.051 & 343.961

Stats. Implemented: ORS 343.243 & 343.961

Hist.: ODE 14-2009, f. & cert. ef. 12-10-09; ODE 15-2011, f. & cert. ef. 12-15-11

581-015-2574

Resident District Obligations for Students in Long-Term Care and Treatment (LTCT) Education Programs

(1) The resident district must provide or pay for the daily transportation to and from a Psychiatric Day Treatment Program in which a student placed by a public entity, private entity or by the student's parent is enrolled as follows:

(a) The resident district may directly transport or contract for transportation services with the agency, an adjacent school district, an education service district or a private carrier as long as the sub-contractor is operating under the provision of ORS 801.455, 801.460, and 820.100 through 820.150, or is exempt from these regulations by operating under the Public Utility Commission, ORS Chapter 767, or city regulations included in ORS Chapter 221.

(b) Subject to agreement with the parent or guardian, the resident district may reimburse a parent or guardian for the transportation of a child at the per mile rate established by that district.

(c) Transportation must be provided by the resident district each day the student is scheduled to receive services from the eligible day treatment program.

(2) The resident district may claim reimbursement OAR 581-023-0040 for transportation costs incurred while transporting the student only when the student receives education services at the eligible day treatment program.

(3) The resident district must participate in all individualized education program or personalized education plan meetings involving its students.

Stat. Auth. ORS 326.051, 327.006, & 343.961

Stats. Implemented: ORS 343.961

Hist.: ODE 14-2009, f. & cert. ef. 12-10-09; ODE 15-2011, f. & cert. ef. 12-15-11; ODE 35-2014, f. & cert. ef. 6-27-14

581-015-2575

School Programs in Private Hospitals

(1) For purposes of this rule:

(a) "Patient" means a school age child;

(b) "Specialized intensive treatment" means that the hospital maintains special facilities, equipment, and staff;

(c) "School district" means the school district in which the private hospital is located.

(2) Private hospitals not including psychiatric facilities may submit an application for approval of a school program to the State Superintendent of Public Instruction. The application submitted must include verification that:

(a) The hospital admits patients from throughout the state;

(b) The hospital provides specialized intensive treatment that is unique and generally not available in local community hospitals;

(c) The hospital provides services to patients who have severe, low incidence types of disabling conditions including but not limited to burns, orthopedic impairments, and head injuries, but not including drug and alcohol problems;

(d) The hospital admits patients who can be expected to be hospitalized for five days or more or readmitted frequently; and

(e) The facility is licensed as a hospital under OAR 333-500-0010(1)(a).

(3) Approval of the application by the State Superintendent of Public Instruction establishes the school district's eligibility to receive state funds to operate the hospital education program.

(4) All patients are eligible to receive educational services. Educational services must begin if a patient's hospital stay is expected to last five school days or longer and the hospital staff has determined the patient is medically able to receive educational services.

(5) The school district contracting to provide the education program must develop or implement an existing individualized education program that meets all applicable state and federal requirements for patients who meet eligibility criteria for a disability under OAR 581-015-2130 through 581-015-2180;

(6) The primary purpose of the school program for hospitalized patients is to maintain the patient's educational programs.

(7) The hospital must:

(a) Provide classroom space and facilities necessary to carry out the educational program for each patient;

(b) Coordinate with the school program in developing each patient's educational and medical treatment needs; and

(c) Assume responsibility for the transportation, care, treatment, and medical costs of each patient.

(8) All teachers in the hospital school program must have appropriate teacher licensure under rules of the Teacher Standards and Practices Commission.

(9) Upon initial application or approval of a school program in a private hospital, the Oregon Department of Education will review the application, inspect the school program facility and confer with hospital authorities as necessary. The Department will then notify the school district whether the school program is approved or disapproved and under what conditions; if approved, the date upon

which funds will be available for operation of the school program, and the effective date and length of the approval. The school district may reapply for approval at the expiration of each approval period.

(10) The Department will monitor each program for compliance with applicable state and federal requirements.

(11) The State Superintendent of Public Instruction will ensure that the school district contracting to provide the educational program meets the following requirements:

(a) The program is operated under a written agreement with the Department of Education;

(b) Each child without a disability has a personalized educational plan that; includes goals, services, timelines, and assessment of progress.

(c) Information pertaining to the educational programs is provided to the Department in an accurate and timely manner; and

(d) The educational program is developed and implemented in conjunction with the medical treatment program.

Stat. Auth.: ORS 343.261

Stats. Implemented: ORS 343.261

Hist.: EB 29-1987, f. & ef. 11-19-87; EB 16-1990, f. & cert. ef. 4-5-90; ODE 2-2003, f. & cert. ef. 3-10-03; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03; Renumbered from 581-015-0017, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 26-2008, f. 10-23-08, cert. ef. 10-24-08

581-015-2580

School Programs in State-Operated Hospitals

(1) For purposes of this rule:

(a) "Patient" means a school age child who is admitted to a state-operated hospital;

(b) "School district" means the school district in which the state-operated hospital or training centers is located.

(2) All patients admitted to state operated hospitals are eligible to receive educational services.

(3) Educational services in state operated hospitals must commence if a patient's hospital stay is expected to last five schools days or longer and the hospital staff has determined the patient is medically able to receive educational services.

(4) The school district contracting to provide the education program shall develop or implement an existing individualized education program that meets all applicable state and federal requirements for patients who meet eligibility criteria under OAR 581-015-2130 through 581-015-2180.

(5) The primary purpose of the school program for patients in state-operated hospitals is to maintain the patients' educational programs.

(6) The hospital must:

(a) Provide classroom space and facilities necessary to carry out the educational program for each patient;

(b) Coordinate with the school program in developing each patient's educational and medical treatment needs; and

(c) Assume responsibility for the transportation, care, treatment, and medical costs of each patient.

(7) All teachers in hospital programs must have appropriate teacher licensure under rules of the Teacher Standards and Practices Commission.

(8) The Department will monitor each program for compliance with applicable state and federal requirements.

(9) The State Superintendent of Public Instruction will ensure that the school district contracting to provide the educational program meets the following requirements:

(a) The program is operated under a written agreement with the Department of Education;

(b) Each child without a disability has a personalized educational plan that includes goals, services, timelines, and assessment of progress.

(c) Information pertaining to the educational programs is provided to the Department in an accurate and timely manner;

(d) The educational program is developed and implemented in conjunction with the medical treatment program.

Stat. Auth.: ORS 343.261

Stats. Implemented: ORS 343.261

Hist.: EB 28-1987, f. & ef. 11-19-87; EB 15-1990, f. & cert. ef. 4-5-90; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0016, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 26-2008, f. 10-23-08, cert. ef. 10-24-08

581-015-2585

Youth (Juvenile) Corrections Education and Juvenile Detention Education Programs

(1) Definitions:

(a) "Youth Corrections Education Program" means the provision of educational services to youths in youth correction facilities of the Oregon Youth Authority, and includes secure regional youth facilities, regional accountability camps, residential academies and satellites, camps and branches of those facilities.

(b) "Juvenile Detention Education Program" means the provision of educational services to youths lodged overnight who receive educational services on consecutive days within a detention facility.

(2) Youth Corrections Education Program: The following administrative rules apply to education programs for youth housed in Oregon Youth Authority youth correctional facilities:

(a) Special Education Rules, OAR 581-015-2000 through 581-015-2070, 581-015-2080 through 581-015-2255, 581-015-2300 through 581-015-2445, 581-015-0607 through 581-015-2565, and 581-015-2585 through 581-015-2590.

(b) School Improvement and Professional Development Rules, OARs 581-020-0005 through 581-020-0200;

(c) School Governance and Student Conduct, OARs 581-021-0037 through 581-021-0440;

(d) Standards for Public Elementary and Secondary Schools, OARs 581-022-0102 through 581-022-0413, 581-022-0606, 581-022-0610, 581-022-0705, 581-022-1020 through 581-022-1210, 581-022-1310 through 581-022-1340, 581-022-1420, 581-022-1440, 581-022-1520, 581-022-1610 through 581-022-1670, 581-022-1710 through 581-022-1730;

(e) Funds to State and Local Agencies to Provide Employment and Training Services Under the Workforce Investment Act (formerly the Job Training Partnership Act (JPTA), OARs 581-060-0010 through 581-060-0020;

(f) Teacher Standards and Practices Commission Rules.

(3) Juvenile Detention Education Program: All rules applicable to education programs for OYA youth correction facilities, as set out in sections (1) of this rule, apply to educational programs for juvenile detention facilities.

(a) Students may not be suspended or expelled from juvenile detention education programs.

(b) Juvenile directors and the school district or education service district responsible for the education of students in a juvenile detention education program under contract with the Department will sign a letter of agreement establishing each agency's areas of responsibility and duties.

(4) Notwithstanding OAR 581-015-2190(6)(b), the school district or ESD responsible for the special education of students in a juvenile detention program or juvenile corrections program is not required to provide notice of meetings to the parent after rights transfer to the student pursuant to OAR 581-015-2325.

Stat. Auth.: ORS 326.021

Stats. Implemented: ORS 326.695-326.712; 34 CFR 300.520(a)(2)

Hist.: EB 3-1997, f. & cert. ef. 4-25-97; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03; Renumbered from 581-015-0301, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2590

Required Days of Instruction

The Department will schedule and provide an annual school year consisting of a minimum 220 days of actual classroom instruction (time students are present for a major portion of a scheduled school day, engaged in learning experiences related to Department goals and under guidance of teachers). Up to five days of temporary closure due to extraordinary conditions may be counted toward the 220 days, subject to the Superintendent's approval.

Stat. Auth.: ORS 326.021

Stats. Implemented: ORS 326.695-326.712

Hist.: 1EB 255, f. & ef. 12-20-76; EB 3-1997, f. & cert. ef. 4-25-97;
Renumbered from 581-015-0415, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2595

Education Programs for Children at Residential Youth Care Centers

The purpose of this rule is to ensure that school districts meet the provisions outlined in ORS 336.580.

(1) Definitions: For the purposes of this rule, the following definitions apply:

(a) "Consultation" means scheduled opportunities for the residential youth care center director and the education representative of the district, or its contractor, to share information and concerns about the behavioral characteristics, learning styles, educational needs, and level of educational support for the children residing at the residential youth care center in order to develop, review, and agree upon the education plan;

(b) "District" means the school district in which the residential youth care center is located;

(c) "Least restrictive environment" means serving a child in the educational setting in which the child can reasonably be expected to learn while maintaining integration in the local community;

(d) "Open entry-open exit" means that the education program provides opportunities for students to make progress in obtaining school credits or otherwise meeting their educational goals even though they may enroll or exit at any time during the school year.

(e) "Residential youth care center" means a community program defined in ORS 420.855 and operated by a public or private agency. Residential youth care centers where resident children receive educational services funded under ORS 343.961 are not included under the provisions of this rule;

(2) For children placed at a youth care center within a detention facility, as defined in ORS 419A.004, the children shall receive educational services through the Juvenile Detention Education Program as described in ORS 326.695.

(3)(a) The school district in which the residential youth care center is located is responsible for developing a plan which meets the provisions outlined in ORS 336.580. The district may contract this responsibility to another school district or ESD. The delivery of educational services may be provided by the residential youth care center;

(b) The plan must be developed by the district or its contractor after consultation with the residential youth care center director and shall address behavioral characteristics, learning styles, and educational needs of the children pursuant to OAR 581-022-1670;

(c) The plan for an education program must provide for open entry-open exit and must provide opportunities for students to earn school credits in accordance with OAR 581-022-1350, 581-022-1131, and 581-023-0008, opportunities for earning a GED when appropriate, or appropriate skill development to ensure educational progress. A continuum of educational services must be available which assure placement of children in the least restrictive environment in which they can reasonably be expected to be successful until they are exempted from compulsory attendance or receive a high school diploma or an equivalent;

(d) The plan must be approved annually by the school district board in which the youth care center is located.

(4) The district must ensure compliance with sections (3) of this rule. If the district does not comply directly or through its contractor, the State Superintendent will find the district deficient and may apply the penalty provided in ORS 327.103.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 336.580

Hist.: EB 9-1988(Temp), f. & cert. ef. 2-17-88; EB 29-1988, f. & cert. ef. 7-5-88; ODE 2-1998, f. & cert. ef. 2-27-98; Renumbered from 581-015-0505, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 28-2007, f. & cert. ef. 12-12-07; ODE 20-2015, f. & cert. ef. 12-18-15

581-015-2600

Incarcerated Youth

(1) In accordance with OAR 581-015-2045, the obligation to make a free appropriate public education available to all children

with disabilities does not apply with respect to certain students aged 18 through 21 incarcerated in an adult correctional facility.

(2) For students with disabilities who are convicted as adults, incarcerated in adult correctional facilities, and otherwise entitled to a free appropriate public education:

(a) The following IEP requirements in OAR 581-015-2200 do not apply:

(A) The requirements relating to participation of children with disabilities in statewide and school district assessments; and

(B) The requirements relating to transition planning and transition services, with respect to the students whose eligibility will end, because of their age, before they will be eligible to be released from adult correctional facilities based on consideration of their sentence and eligibility for early release.

(b) The IEP team may modify the student's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated. The requirements of OAR 581-015-2200 and 581-015-2240 do not apply with respect to these modifications.

(3) For purposes of this rule, "adult correctional facility" has the meaning in OAR 581-015-2045.

(4) Notwithstanding OAR 581-015-2190(6)(b), the public agency responsible for the special education of students in an adult correctional facility is not required to provide notice of meetings to the parent after rights transfer to the student pursuant to OAR 581-015-2325.

Stat. Auth.: ORS 343.055;

Stats. Implemented: ORS 339.115, 34 CFR 300.324(d)

Hist.: ODE 3-2000, f. & cert. ef. 2-1-00; Renumbered from 581-015-0603, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2605

Plans to Serve Students in Local or Regional Correctional Facilities

A school district must have a plan, approved by the local school board, to provide or cause to be provided appropriate education for children placed in a local or regional correctional facility located in the school district.

Stat. Auth.: ORS 343.055

Stats. Implemented: ORS 339.129

Hist.: ODE 3-2000, f. & cert. ef. 2-1-00; Renumbered from 581-015-0604, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2610

Standards for Home, Hospital, Institutional or Other Regularly Scheduled Instruction

(1) School districts may provide home, hospital, institutional, or other regularly scheduled instruction to any eligible student with a disability.

(2) Funding: School districts that provide home, hospital, institutional, or other regularly scheduled instruction under section (1) of this rule may claim state school funding under OAR 581-023-0100.

(3) Criteria for Placement: School districts that propose to place a student with a disability in a home, hospital, institutional, or other regularly scheduled program must ensure that the following criteria are met:

(a) The student must be enrolled as a resident student of the school district;

(b) The home, hospital, institutional, or other regularly scheduled program must be appropriate to the unique educational needs of the student;

(c) The student must meet the minimum criteria established by the State Board of Education for determining eligibility to receive special education as set forth in OAR 581-015-2130 through 581-015-2180.

Stat. Auth.: ORS 343.041, 343.045, 343.055

Stats. Implemented: ORS 343.261

Hist.: 1EB 1 87, f. 3-6-75, ef. 3-25-75; Renumbered from 581-022-0155; 1EB 248, f. & ef. 9-23-76; EB 11-1995, f. & cert. ef. 5-25-95; Renumbered from 581-015-0015, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2700

Definitions — EI/ECSE Program

For the purposes of OAR 581-015-2700 to 581-015-2910, the definitions in this rule and 581-015-2000 apply.

(1) “Assessment” means the ongoing procedures used by appropriate qualified personnel to identify the child’s unique strengths and needs throughout the period of the child’s eligibility. For EI this includes, the initial assessment of the child and family prior to the first IFSP meeting.

(2) “Communication” means receptive or expressive language development.

(3) “Contractor” means the agency designated by the Department to administer the provision of EI and ECSE within selected service areas.

(4) “Department” means the Oregon Department of Education.

(5) “Designated referral and evaluation agency” means the agency in each county designated to be the referral point for parents and others who suspect that a child may need early intervention or early childhood special education, and to be responsible for assuring that all referred children suspected of having a disability receive evaluation for potential eligibility for early intervention and early childhood special education.

(6) “Early childhood special education (ECSE)” means free, specially designed instruction to meet the unique needs of a preschool child with a disability, three years of age until the age of eligibility for public school, including instruction in physical education, speech-language services, travel training, and orientation and mobility services. Instruction is provided in any of the following settings: home, hospitals, institutions, special schools, classrooms and community childcare or preschool settings, or both.

(7) “Early intervention and early childhood special education assistants” means individuals who implement program activities under the direct supervision of the professional personnel.

(8) “Early intervention and early childhood special education specialists” means professionals who implement or coordinate the implementation of individualized family service plans.

(9) “Early intervention (EI)” means services for preschool children with disabilities from birth until three years of age, including Indian children and children who are homeless and their families, these services are:

(a) Based on scientifically-based research, as defined in OAR 581-015-2000, to the extent practicable;

(b) Designed to meet the child’s developmental needs and the needs of the family related to enhancing the child’s development as identified by the IFSP team, in any one or more of the following areas: physical development; cognitive development; communication development; social or emotional development; or adaptive development;

(c) Selected in collaboration with the parents;

(d) Provided:

(A) Under public supervision;

(B) By personnel qualified in accordance with criteria established by rules of the State Board of Education; and

(C) In conformity with an individualized family service plan;

(e) At no cost to parents;

(f) Meet all applicable state requirements; and

(g) Include the following types of intervention services (defined in 303.13(1): family training, counseling, in-home visits; special instruction; speech-language pathology and audiology services, and sign language and cued language services; occupational therapy; physical therapy; psychological services; service coordination; medical services only for diagnostic or evaluation purposes; early identification, screening, and assessment services; health services necessary to enable the child to benefit from other early intervention services; nursing services, nutrition services, social work services; vision services; assistive technology devices and services; and transportation and related costs that are necessary to enable a child and the child’s family to receive another early intervention service.

(10) “Educational records” means those records that are:

(a) Directly related to a student; and

(b) Maintained by a primary contractor or subcontractor.

(11) “Evaluation” means the procedures used by qualified personnel to determine;

(a) A child’s initial eligibility for EI or ECSE services;

(b) A child’s continuing eligibility for EI or ECSE services; and

(12) “Health Services” means services necessary to enable an otherwise eligible child to benefit from the other early intervention services under this part during the time that the child is eligible to receive early intervention services.

(b) The term includes:

(A) Such services as clean intermittent catheterization, tracheotomy care, tube feeding, the changing of Dressings or colostomy collection bags, and other health services; and

(B) Consultation by physicians with other service providers concerning the special health care needs of infants and toddlers with disabilities that will need to be addressed in the course of providing other early intervention services.

(c) The term does not include:

(A) Services that are:

(i) Surgical in nature ;

(ii) Purely medical in nature; or

(iii) Related to the implementation, optimization, maintenance, or placement of a medical device that is surgically implanted.

(I) Nothing in this part limits the right of an infant or toddler with a disability with a surgically implanted device to receive the early intervention services that are identified in the child’s IFSP as being needed to meet the child’s IFSP and developmental outcomes.

(II) Nothing in this part prevents the EI provider from routinely checking that either the hearing aid or the external components of a surgically implanted device of an infant or toddler with a disability are functioning properly;

(B) Devices necessary to control or treat a medical condition; and

(C) Medical-Health services (such as immunizations and regular “well baby” care) that are routinely recommended for all children.

(13) “IFSP Content” means the definition as stated in OAR 581-015-2815 which includes:

(a) “Frequency” which means the number of days or sessions that a service is provided;

(b) “Duration” which means projecting when a given service will no longer be provided (such as when the child is expected to achieve the outcomes in his or her IFSP);

(c) “Intensity” which means whether a service will be provided on an individual basis;

(d) “Method” which means how a service is provided; and

(e) “Location” which means the actual place or places where a service will be provided.

(14) “Independent educational evaluation (IEE)” means an evaluation conducted by a qualified examiner who is not employed by the Department, the contractor, or subcontractor responsible for the child in question.

(15) “Indian” means an individual who is a member of an Indian tribe. “Indian Tribe” means any federal or state Indian tribe, band, rancheria, pueblo, colony, or community, including any native village or regional village corporation

(16) “Individualized family service plan (IFSP)” means a written plan of early childhood special education, related services, early intervention services, and other services developed in accordance with criteria established by the State Board of Education for each child eligible for services under this chapter.

(17) “Informed clinical opinion” means the acquisition and interpretation of multiple sources of information as part of the evaluation and assessment process. This includes evaluation and assessment results, observation reports, previous testing results, medical data, parent reports, and other evaluative information. A

review of this information is used in forming a determination regarding current developmental status and the need for EI.

(a) Informed clinical opinion may be used as an independent basis to establish a child's eligibility under this Section even when other instruments do not establish eligibility.

(b) In no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish eligibility.

(18) "Initial Assessment" means the assessment of a child and the family assessment that is conducted prior to the child's first IFSP meeting.

(19) "Instruction" means providing families with information and skills that support the achievement of the goals and outcomes in the child's IFSP and working with preschool children with disabilities in one or more of the following developmental areas: communication development, social or emotional development, physical development, including vision and hearing, adaptive development, and cognitive development.

(20) "Lead Agency" means the agency designated by the Governor under Section 635(a)(10) of IDEA and § 303.120 that receives funds under Section 643 of the Act to administer the responsibilities under Part C of the Act.

(21) "Local Education Agency" or LEA

(a) LEA means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, or other political subdivision of the State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools

(b) Educational service agencies and other public institutions or agencies. This includes the following:

(A) A regional public multiservice agency-

(i) Authorized by State law to develop, manage, and provide services or programs to LEAs; and

(ii) Recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of the State.

(B) Any public institution or agency having administrative control and direction of a public elementary school or secondary school, including public charter school, that is established as an LEA under State law.

(C) Entities that meet the definition of intermediate educational unit or IEU in section 602(23) of IDEA, as in effect prior to June 4, 1997.

(c) BIE funded schools which are funded by the Bureau of Indian Education and not subject to the jurisdiction of the SEA other than the Bureau of Indian Education, but only to the extent that the inclusion makes the school eligible for programs which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the LEA receiving assistance under the Act with the smallest student population,

(22) "Monitoring" means activities carried out by the Department and its contractors which measure the subcontractor's compliance with state and federal mandates for the provision of EI and ECSE.

(23) "Multidisciplinary" means the involvement of two or more separate disciplines or professions and with respect to-

(a) evaluation of the child and assessments of the child and family, this may include one individual who is qualified in more than one discipline or profession; and

(b) for the IFSP Team this means the involvement of the parent and two or more individuals from separate disciplines or professions and one of these individuals must be the service coordinator.

(24) "Natural environment" means settings that are natural or normal for the child's age peers who have no disability.

(25) "Other services" means those services that may be provided to preschool children with disabilities and to their families

that are not EI or ECSE services and are not paid for with EI or ECSE funds.

(26) "Parent" means:

(a) One or more of the following persons:

(A) A biological or adoptive parent of the child;

(B) A foster parent of the child,

(C) A legal guardian, generally authorized to act as the child's parent, or authorized to make EI, educational health or developmental decisions for the child (but not the State if the child is a ward of the State).

(D) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or

(E) A surrogate parent who has been appointed in accordance with OAR 581-015-2320, for school-age children, or 581-015-2760 for preschool children.

(b) Except as provided in subsection (c), if more than one party is qualified under subsection (a) to act as a parent and the biological or adoptive parent is attempting to act as the parent, the biological or adoptive parent is presumed to be the parent unless the biological or adoptive parent does not have legal authority to make EI or educational decisions for the child.

(c) If a judicial decree or order identifies a specific person under subsection (a) to act as the parent of a child or to make educational or EI decisions on behalf of a child, then that person will be the parent for special education purposes, except that if an EIS provider or a public agency provides any services to a child or any family member of that child, that EIS provider or public agency may not act as the parent for that child.

(27) "Parent Training and Information Center" means a center assisted under section 671 or 672 of IDEA

(28) "Periodic review" means a review of the IFSP for a child and the child's family. An EI or ECSE program or parent may request a review of the IFSP.

(29) "Personally Identifiable Information" means information as identified in the Family Educational Rights and Privacy Act (FERPA) found at 34 CFR 99.3 and OAR 581-015-2000(23), except any reference to a "student" means a "child" in this part and any reference to a "school" means an EIS provider as used in this part.

(30) "Physical development" means gross or fine motor development.

(31) "Preschool child with disabilities" means all children from:

(a) Birth until three years of age, including infants and toddlers who are eligible for EI services under OAR 581-015-2780(3); or

(b) Three years of age to eligibility for public school who are eligible for ECSE services under OAR 581-015-2795.

(32) "Professional Development Plan" means a written document specifying the name of the employee, the position, current qualifications, current deficits, an accounting of steps to be taken to rectify deficits including timelines, persons responsible, and the final date by which the plan will be complete.

(33) "Public agency" or "public agencies" means the lead agency and any other agency or political subdivision of the state.

(34) "Qualified Personnel" means personnel who have met State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the areas in which the individuals are conducting evaluations or assessments or providing early intervention services.

(35) "Related services" includes transportation and such developmental, corrective, and other supportive services, including orientation and mobility services, speech language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation including therapeutic recreation, school health services and school nurse services, counseling, social work services, parent counseling and training, and medical services, as may be required to assist a child with disabilities, three years of age until the age of eligibility for public

school, to benefit from special education or early childhood special education and includes early identification and assessment of disabling conditions. Medical services shall be for diagnostic and evaluation purposes only. This definition incorporates the exception for services for children with surgically implanted devices, including cochlear implants, in 34 CFR 300.34(b) and the definitions for individual related services in 34 CFR 300.34(c).

(36) “Related services personnel” means professionals who consult, supervise, train staff, design curriculum, or implement related services.

(37) “Service coordination” means the activities carried out by a service coordinator to assist and enable an eligible child and the child’s family to receive the rights, procedural safeguards and services that are authorized under the state’s EI program and to coordinate access to other services designated on the IFSP.

(38) “Sign Language and cued language services” include teaching sign language, cued language, and auditory/oral language, providing oral translation services (such as amplification), and providing sign and cued language interpretation.

(39) “State Education Agency” or SEA means the State Board of Education or other agency or officer primarily responsible for State supervision of public elementary schools and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law and the term includes the agency that receives funds under IDEA to administer the State’s responsibilities under part B of the Act.

(40) “State Interagency Coordinating Council” (SICC) means a council appointed by the Governor for IDEA Part C purposes in compliance with 34 CFR 303.600-303.605

(41) “Subcontractor” means the agency or agencies selected by the contractor to provide services for EI and ECSE.

(42) “Supervision” means the activities carried out by the Department and its primary contractors to oversee the provision of EI and ECSE services.

(43) “Supervisor” means a professional who supervise and train staff, design curriculum, and administer EI or ECSE programs.

(44) The following words are defined in OAR 581-015-2000:

- (a) “Assistive technology device”;
- (b) “Assistive technology service”;
- (c) “Children with disabilities”;
- (d) “Autism”;
- (e) “Communication disorder”;
- (f) “Deafblindness”;
- (g) “Emotional disturbance”;
- (h) “Hearing impairment”;
- (i) “Intellectual disability”;
- (j) “Orthopedic impairment”;
- (k) “Other health impairment”;
- (l) “Specific learning disability”;
- (m) “Traumatic brain injury”;
- (n) “Visual impairment”;
- (o) “Consent”;
- (p) “Day”;
- (q) “Department”;
- (r) “General curriculum”;
- (s) “Health assessment statement”;
- (t) “Identification”;
- (u) “Individualized education program (IEP)”;
- (v) “Mediation”;
- (w) “Medical statement”;
- (x) “Native language”;
- (y) “Participating agency”;
- (z) “Personally identifiable information”;
- (aa) “Placement”;
- (bb) “Private school”;
- (cc) “School district”;
- (dd) “Short term objectives”;
- (ee) “Special education”;
- (ff) “Specially designed instruction”;
- (gg) “Supplementary aids and services”;

- (hh) “Superintendent”;
- (ii) “Surrogate parent”;
- (jj) “Ward of the state”;
- (kk) “Scientifically Based Research”

Stat. Auth.: ORS 343.475

Stats. Implemented: ORS 343.475, 34 CFR 300.5 - 300.45, 34 CFR 99.3, 34 CFR 303.4-303.37, 34 CFR 303.600-303.605

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; EB 4-1995, f. & ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03; ODE 1-2004, f. & cert. ef. 1-15-04; Renumbered from 581-015-0900, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12; ODE 20-2012, f. & cert. ef. 8-1-12

581-015-2705

Establishment of Service Areas

(1) The Department establishes service areas for the provision of EI and ECSE to ensure the provision of services to preschool children with disabilities.

(2) The service areas are designated by the Department and may include multiple counties.

Stat. Auth.: ORS 343.475

Stats. Implemented: ORS 343.475, 343.495

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; ODE 24-2000, f. & cert. ef. 10-16-00; Renumbered from 581-015-0910, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2710

Selection of Contractor

(1) The Department selects a contractor to provide administration and coordination of EI and ECSE in the selected service area.

(2) The contractor will be selected using criteria developed by the Department which include:

- (a) Geographic location;
- (b) Previous experience in the administration of special education, early intervention, or related programs; and
- (c) Expressed willingness to administer the EI and ECSE program in their area in compliance with the applicable state and federal requirements.

(3) The contractor will administer the EI and ECSE programs under a contract from the Department. The contract for administration will include requirements for the following:

- (a) Staffing expectations for the administration of the area program;
- (b) Necessary reports to the Department;
- (c) Development of an area service plan;
- (d) Fiscal responsibility for the administration of contractor funds and the distribution of funds to subcontractors;
- (e) Selection and monitoring of subcontractors including the designated referral and evaluation agency;
- (f) Coordination of technical assistance to EI and ECSE programs in the contractor’s service area;
- (g) Assurances that written agreements exist between agencies to assure interagency coordination in each county of the designated service area;

(h) Assurances that a continuum of alternative placements is available to meet the needs of preschool children with disabilities enrolled in ECSE;

(i) Criteria for supervision of services provided by the contractor when no local subcontractor is available or appropriate; and

(j) Such other requirements as are determined necessary by the Department to assure the provision of EI and ECSE services as authorized by ORS 343.465 to 343.534.

(4) The contract will include timelines, criteria, and procedures to be used by the Department for withholding funds or terminating the contract for failure to comply with contract requirements.

Stat. Auth.: ORS 343.475

Stats. Implemented: ORS 343.465, 343.475, 343.495

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; ODE 24-2000, f. & cert. ef. 10-16-00; Renumbered from 581-015-0920, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2712

Availability of Early Intervention Services

Appropriate early intervention services are offered to eligible children as soon as possible consistent with scientifically based

research, to the extent practicable, and are available to all infants and toddlers with disabilities and their families, including-

- (1) Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State; and
- (2) Infants and toddlers with disabilities who are homeless and their families.

Stat. Auth.: ORS 343.475, 326.051

Stats. Implemented: ORS 343.475

Hist.: ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2713

Central Directory

The EI system shall include a central directory that is accessible to the general public (i.e. through the lead agency's web-site and other appropriate means) which includes accurate, up-to-date information about-

- (1) Public and private early intervention services, resources, and experts available in the State;
- (2) Professional and other groups (including parent support, and training and information centers that provide assistance to infants and toddlers with disabilities eligible for EI services and their families); and
- (3) Research and demonstration projects being conducted in the State relating to infants and toddlers with disabilities.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 343.475, 34 CFR 303.117

Hist.: ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2715

Role of Local Interagency Coordinating Council (LICC)

(1) Each contractor, in conjunction with subcontractor(s), must solicit the advice and assistance of the local interagency coordinating council (LICC) in each county within the contractor's service area, regarding:

- (a) Identification of service needs;
- (b) Coordination of services with other agency services;
- (c) Procedures for resolving local disputes; and
- (d) Development of local interagency agreements.

(2) The recommendations from each LICC must be used by the contractor and subcontractor in developing a plan for services required by the Department. This plan will include components described in section (1) of this rule, and be presented in a format provided by the Department, and must include:

- (a) A written description of the process used in assisting each LICC in the development of their recommendations;
- (b) The contractor's and subcontractor's proposal for implementing the recommendations from the LICC in each county;
- (c) Recommendations from the LICC that the contractor and subcontractor(s) does not propose to implement, and the reason for that decision; and
- (d) A written description of the process used to resolve disagreements between the LICC and the contractor and subcontractor(s).

(3) When there is unresolved conflict over the service plan, and recommendations from the LICC the Department will:

- (a) Investigate the conflict; and
- (b) Make the final decision regarding plan approval and implementation.

(4) The contractor(s) must provide, within available funds, fiscal and other support for the LICC to perform the functions described in this rule. The LICC must submit an annual budget to the contractor(s) to demonstrate the use of the funds.

(5) The LICC must collaborate with other agencies and programs in planning and implementing services for young children and their families in the local community.

Stat. Auth.: ORS 343.475

Stats. Implemented: ORS 343.475, 343.507

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; ODE 24-2000, f. & cert. ef. 10-16-00; Renumbered from 581-015-0930, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2720

Census and Data Reporting – EI/ECSE Program

Contractors and subcontractors must follow the rules and procedures in OAR 581-015-2010 for reporting to the Department all resident preschool children with disabilities with the following definition exception: "School district" means contractors or subcontractors.

Stat. Auth.: ORS 343.475

Stats. Implemented: ORS 343.475, 343.495 & 343.513 - 343.533

Hist.: ODE 24-2000, f. & cert. ef. 10-16-00; Renumbered from 581-015-1045, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2725

Compliance Monitoring – EI/ECSE Program

Contractors and subcontractors involved in the education of preschool children with disabilities will be monitored by the Department of Education on a regular basis as specified in Oregon's federally approved special education policies and procedures and Part C application to ensure compliance with the requirements of the Individuals with Disabilities Education Act, Oregon Revised Statutes, and Oregon Administrative Rules. Monitoring procedures may include program self-assessment, data collection, analysis and reporting, on-site visits, review of policies and procedures, review of the development and implementation of IFSPs, improvement planning, and auditing federal fund use.

Stat. Auth.: ORS 343.041, 343.475

Stats. Implemented: ORS 343.475

Hist.: EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-1110, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2730

Parent Consent for EI

(1) The public agency must obtain written parental consent before conducting an initial evaluation or reevaluation.

(2) Written parental consent must also be obtained before the provision of EI services described in the IFSP. The parents of a child eligible for EI services must determine whether they, their child, or other family members will accept or decline any EI services, and may decline such a service after first accepting it, without jeopardizing other EI services. If the parents do not provide consent for a particular EI service or withdraw consent after first providing it, that service will not be provided. The EI services for which parental consent is obtained will be provided.

(3) If consent is not given, the public agency must make reasonable efforts to ensure that the parent:

- (a) Is fully aware of the nature of the evaluation and assessment or the services that would be available; and
- (b) Understands that the child will not receive the evaluation and assessment or services unless consent is given.

Stat. Auth.: ORS 343.475, 343.531

Stats. Implemented: ORS 343.475, 343.531, 34 CFR 303.420 (c)

Hist.: EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03; ODE 1-2004, f. & cert. ef. 1-15-04; Renumbered from 581-015-0938, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2735

Parent Consent for ECSE

(1) Consent means that the parent:

- (a) Has been fully informed, in his or her native language or other mode of communication, of all information relevant to the activity for which consent is sought; and
- (b) Understands and agrees in writing to the carrying out of the activity for which his or her consent is sought.

(2) Consent is voluntary on the part of the parent and meets the requirements of the consent provisions of this rule and 34 CFR 300.622 and 34 CFR 99.30 implementing IDEA, and FERPA respectively.

(3) Consent for initial evaluation:

(a) The public agency must provide notice under OAR 581-015-2745 and obtain informed written parental consent before conducting an initial ECSE evaluation to determine if a child qualifies as a child with a disability under 581-015-2795. Consent for initial

evaluation may not be construed as consent for the initial provision of special education and related services.

(b) The public agency must make reasonable efforts to obtain the informed consent from a parent for an initial evaluation to determine a child's eligibility for ECSE services.

(c) If a parent of a child enrolled in public preschool or seeking to be enrolled in public preschool does not provide consent for an initial evaluation, does not respond to a request for consent for an initial evaluation, or revokes consent for an initial evaluation, the public agency may, but is not required to, pursue the initial evaluation of the child using mediation or due process hearing procedures. A public agency does not violate its child find obligations if it declines to pursue the evaluation using these procedures.

(4) Consent for initial provision of services:

(a) The contractor or subcontractor must obtain informed consent from the parent of the child before the initial provision of ECSE services to the child.

(b) The contractor or subcontractor must make reasonable efforts to obtain informed consent from the parent for the initial provision of ECSE services to the child.

(c) If a parent does not respond or refuses to consent for initial provision of ECSE services or revokes consent for the initial provision of ECSE services, the contractor or subcontractor may not seek to provide ECSE services to the child by using mediation or due process hearing procedures.

(d) If a parent refuses to grant consent for initial provision of ECSE services, does not respond to a request to provide consent for the initial provision of ECSE services, or revokes consent for such services:

(A) The contractor or subcontractor will not be considered to be in violation of the requirement to make available a free appropriate public education to the child for the failure to provide the child with the ECSE services for which the contractor or subcontractor requests consent; and

(B) The contractor or subcontractor is not required to convene an IFSP meeting or develop an IFSP for the child for the ECSE services for which consent is requested.

(e) If, at any time subsequent to the initial provision of ECSE services, the parent of a student revokes consent in writing for the continued provision of ECSE services, the school district

(A) May not continue to provide ECSE services to the student, but must provide prior written notice in accordance with OAR 581-015-2310 before ceasing the provision of special education and related services; and

(B) Is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent.

(5) Consent for reevaluation:

(a) The public agency must obtain informed parent consent before conducting any reevaluation of a child with a disability, except as provided in subsections (b) and OAR 581-015-2740(3).

(b) If a parent refuses to consent to the reevaluation or revokes consent for the reevaluation, the public agency may, but is not required to, pursue the reevaluation by using mediation or due process hearing procedures. A district does not violate its child find obligations if it declines to pursue the reevaluation using these procedures.

(c) If, after reasonable efforts to obtain parent consent, the parent does not respond, the public agency may conduct the reevaluation without consent, unless the reevaluation is an individual intelligence test or test of personality.

(6) Consent to Access Public Benefits or Insurance

(a) Prior to accessing a child or parent's public benefits or insurance for the first time, or disclosing a child's personally identifiable information to the State's public benefits or insurance program for the first time, the ECSE program must obtain informed consent in accordance with IDEA, 34 CFR 300.622 and with the Family Rights and Privacy Act (FERPA), 34 CFR 99.30.

(b) Such consent must specify:

(A) The personally identifiable information that may be disclosed (e.g., records or information about the services that may be provided to a particular child);

(B) The purpose of the disclosure (e.g., billing for services), and

(C) The agency to which the disclosure may be made (e.g., the State's public benefits or insurance program (e.g., Medicaid)); and

(D) Specify that the parent understands and agrees that the public agency may access the child's or parent's public benefits or insurance to pay for services.

(7) Revocation of consent:

(a) A parent may revoke consent at any time before the completion of the activity or action for which they have given consent.

(A) A parent may revoke consent for an evaluation or reevaluation that has not yet been conducted.

(B) A parent may revoke consent for the provision of special education services in writing at any time before or during the provision of those services.

(C) A parent may revoke consent for release of personally identifiable information to the State's public benefits or insurance program (e.g., Medicaid).

(b) If a parent revokes consent, that revocation is not retroactive.

(8) Other consent requirements:

(a) The public agency must document its reasonable efforts to obtain parent consent in accordance with OAR 581-015-2755(2)(b).

(b) A parent's refusal to consent to one service or activity may not be used to deny the parent or child any other service, benefit, or activity of the contractor or subcontractor, except as provided in this rule.

(c) If a parent of a child who is placed in a private school by the parents at their own expense does not provide consent for the initial evaluation or the reevaluation, or the parent does not respond to a request for consent:

(A) The public agency may not use mediation or due process hearing procedures to seek consent; and

(B) The public agency is not required to consider the child as eligible for ECSE services.

Stat. Auth.: ORS 343.475 & 343.531

Stats. Implemented: ORS 343.475, 343.531, 34 CFR 300.300 & 34 CFR 300.622

Hist.: EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0939, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 13-2009, f. & cert. ef. 12-10-09; ODE 11-2013(Temp), f. & cert. ef. 4-25-13 thru 10-21-13; ODE 12-2013, f. & cert. ef. 5-30-13

581-015-2740

Exceptions to Parental Consent — EI/ECSE Program

(1) Parental consent is not required before:

(a) Reviewing existing data as part of an evaluation or a reevaluation;

(b) Administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children; or

(c) Conducting evaluation tests, procedures or instruments that are identified on a child's IFSP as a measure for determining progress; or

(d) Conducting a screening of a child by an EI/ECSE specialist to determine appropriate instructional strategies for curriculum implementation.

(2) Consent for initial evaluation for wards of the state (for children age three and above): If a child is a ward of the state and is not residing with the child's parent, the public agency is not required to obtain informed written consent from the parent for an initial evaluation to determine whether the child is a child with a disability if:

(a) Despite reasonable efforts to do so, the agency cannot discover the whereabouts of the parent of the child;

(b) The rights of the parents of the child have been terminated in accordance with state law; or

(c) The rights of the parent to make educational decisions have been subrogated by a judge in accordance with state law and

consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.

(3) For children age three and above, if, after reasonable efforts to obtain parent consent, the parent does not respond, the contractor or subcontractor may conduct the reevaluation without consent, unless the reevaluation is an individual intelligence test or test of personality.

(4) For the purposes of (3) of this rule, “reasonable efforts” means the contractor or subcontractor has used procedures consistent with OAR 581-015-2755(2)(b).

(5) Parental consent is not required if an administrative law judge determines under OAR 581-015-2375 that the evaluation or reevaluation is necessary to ensure that the child is provided with appropriate EI services, or for children in ECSE, a free appropriate public education.

Stat. Auth.: ORS 343.475, 343.531

Stats. Implemented: ORS 343.475, 343.531, 34 CFR 300.300, 300.302

Hist.: ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03;

Renumbered from 581-015-0937, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2745

Prior Written Notice and Notice of Procedural Safeguards — EI/ECSE Program

(1) Prior written notice must be given to the parent or surrogate parent a reasonable time before the contractor or subcontractor proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, placement of the child; or

(a) The provision of appropriate EI services if the child is from birth to age three; or

(b) The provision of a free appropriate public education to the child if the child is three years of age to eligibility for public school.

(2) The content of the prior written notice must include:

(a) A description of the action proposed or refused by the contractor or subcontractor;

(b) An explanation of why the contractor or subcontractor proposed or refused to take the action;

(c) A description of any options that the IFSP team and reasons why those options were rejected;

(d) A description of each evaluation procedure, assessment, test, record, or report which is directly relevant to the proposal or refusal;

(e) A description of any other factors relevant to the contractor’s or subcontractor’s proposal or refusal;

(f) A statement that the parents of a child with a disability have procedural safeguards and, if it is not an initial referral for evaluation, the means by which a copy of the Notice of Procedural Safeguards may be obtained;

(g) Sources for parents to contact to obtain assistance in understanding their procedural safeguards; and

(h) For children in EI, a statement of the complaint procedures under OAR 581-015-2030, including a description of how to file a complaint and the timelines under those procedures.

(3) The prior notice must be:

(a) Written in language understandable to the general public; and

(b) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(4) If the native language or other mode of communication of the parent is not a written language, the contractor or subcontractor must take steps to ensure that:

(a) The notice is translated orally or by other means to the parent in the parent’s native language or other mode of communication;

(b) The parent understands the content of the notice; and

(c) There is written evidence that the requirements in subsections (5)(a) and (b) of this rule have been met.

(5) If a parent is deaf or blind, or has no written language, the mode of communication must be that normally used by the parent (such as sign language, Braille, or oral communication).

(6) Notice of Procedural Safeguards: Contractors and subcontractors must provide notice of Procedural Safeguards as described in OAR 581-015-2315.

Stat. Auth.: ORS 343.475 & 343.531

Stats. Implemented: ORS 343.475, 343.527, 343.531, 34 CFR 300.503 & 300.504

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; EB 4-1995, f. & cert. ef. 1-24-95; EB 27-1995, f. & cert. ef. 12-11-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 8-2001, f. & cert. ef. 1-29-01; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03; ODE 1-2004, f. & cert. ef. 1-15-04; Renumbered from 581-015-0940, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 11-2013(Temp), f. & cert. ef. 4-25-13 thru 10-21-13; ODE 12-2013, f. & cert. ef. 5-30-13

581-015-2750

Parent Participation — General — EI/ECSE Program

(1) For a child under age three, contractors or subcontractors must provide parents with an opportunity to participate in meetings with respect to the identification, evaluation, IFSP, placement of the child and the provision of appropriate EI services and transition to ECSE or other services. For IFSP meetings, contractors and subcontractors must also follow requirements of OAR 581-015-2755.

(2) For a child age three and older, contractors or subcontractors must provide parents with an opportunity to participate in meetings with respect to the identification, evaluation, IFSP, placement of the child, the provision of a free appropriate public education and transition to school age or other services. For IFSP and placement meetings, contractors and subcontractors must also follow requirements of OAR 581-015-2755.

(3) Contractors or subcontractors must provide parents and other participants with a written notice of the meeting sufficiently in advance to ensure that parents and others will have an opportunity to attend. The written notice must:

(a) State the purpose, time and place of the meeting and who will attend;

(b) Inform the parents that they or the agency may invite other individuals who they believe have knowledge or expertise regarding the child;

(c) Inform the parents of a child age three or older that the team may proceed with the meeting even if the parent is not in attendance; and

(d) Inform the parents of whom to contact before the meeting to provide information if they are unable to attend.

(4) The contractor or subcontractor must take whatever action is necessary to ensure that the parents understand the proceedings at a meeting, including:

(a) For a child under age three, conducting the meeting in the native language of the family or other mode of communication used by the family unless it is clearly not feasible to do so; and

(b) For a child age three and over, arranging for an interpreter for parents who are deaf or whose native language is other than English.

(5) A meeting does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, instructional plans, or coordination of service provision if those issues are not addressed in the child’s IFSP. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response parent proposal that will be discussed at a later meeting.

(6) Conducting a meeting without a parent in attendance: A meeting may be conducted without a parent in attendance if the public agency has given the parent notice under subsection (3) or, for IFSP or placement meetings, in accordance with OAR 581-015-2755.

Stat. Auth.: ORS 343.475;

Stats. Implemented: ORS 343.475, 343.531, 34 CFR 300.501

Hist.: ODE 24-2000, f. & cert. ef. 10-16-00; ODE 8-2001, f. & cert. ef. 1-29-01; ODE 2-2003, f. & cert. ef. 3-10-03; ODE 1-2004, f. & cert. ef. 1-15-04; Renumbered from 581-015-0962, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2755

Additional Parental Participation Requirements for IFSP and Placement Meetings — EI/ECSE Program

(1) For a child under age three:

(a) Contractors or subcontractors must schedule IFSP meetings in settings and at times that are convenient to families;

(b) If neither parent can attend, the contractor or subcontractor must use other methods to ensure parent participation, including, but not limited to, individual or conference phone calls or home visits; and

(c) The contents of the IFSP must be fully explained to the parents and informed written consent obtained from the parents before the provision of EI services described in the plan.

(2) For a child age three and older:

(a) Contractors or subcontractors must take steps to ensure that one or both of the parents of a child with a disability are present at each IFSP or placement meeting or are afforded the opportunity to participate, including:

(A) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and

(B) Scheduling the meeting at a mutually agreed on time and place.

(C) If neither parent can attend, the contractor or subcontractor must use other methods to ensure parent participation, including, but not limited to, individual or conference phone calls or home visits;

(b) An IFSP or placement meeting may be conducted without a parent in attendance if the contractor or subcontractor is unable to convince the parents that they should attend. If the contractor or subcontractor proceeds with an IFSP or placement meeting without a parent in attendance, the contractor or subcontractor must have a record of its attempts to arrange a mutually agreed on time and place, such as:

(A) Detailed records of telephone calls made or attempted and the results of those calls;

(B) Copies of correspondence sent to the parents and any responses received; and

(C) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

(c) The Department considers contractor or subcontractor attempts to convince parents to attend sufficient if the contractor or subcontractor:

(A) Communicates directly with the parent and arranges a mutually agreeable time and place, and sends written notice required under OAR 581-015-2750 to confirm this arrangement; or

(B) Sends written notice required under OAR 581-015-2750, proposing a time and place for the meeting and stating in the notice that the parent may request a different time and place, and confirms that the parent received the notice.

(C) "Sufficient attempts" may all occur before the scheduled IEP or placement meeting, and do not require the scheduling of multiple agreed-upon meetings unless the team believes this would be in the best interest of the child.

(3) The contractor or subcontractor must give the parent a copy of the IFSP at no cost to the parent. If the parent does not attend the IFSP meeting, the contractor subcontractor must ensure that a copy is provided to the parent.

Stat. Auth.: ORS 343.475, 343.521, 343.531

Stats. Implemented: ORS 343.475, 343.495, 343.521, 343.531, 34 CFR 300.322, 34

Hist.: ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03CFR 300.501; Renumbered from 581-015-0966, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2760

Surrogate Parents — EI/ECSE

(1) Each contractor or subcontractor serving a child participating in EI or ECSE must ensure that the rights of the child are protected by appointing a surrogate parent not more than 30 days after a determination by the contractor or subcontractor that the child needs a surrogate because:

(a) No parent (as defined in OAR 581-015-2700(19)) can be identified or located after reasonable efforts; or

(b) The child is a ward of the state and there is reasonable cause to believe that the child has a disability.

(2) In determining the need for a surrogate, the contractor or subcontractor must consider whether it is likely to take any action regarding the child that would require notice under OAR 581-015-2745 to the parents.

(3) Each contractor or subcontractor must have a method for determining whether a child needs a surrogate parent and for assigning a surrogate parent to the child. The contractor or subcontractor must ensure that each person approved to serve as surrogate:

(a) Is not an employee of the contractor or subcontractor or the Department or any other agency involved in the early intervention, education or care of the child;

(b) Does not provide EI/ECSE services to the child or to any family members of the child;

(c) Is free of any personal or professional interest that conflicts with representing the child's early intervention or special education interests; and

(d) Has the necessary knowledge and skills to protect the special education rights of the child.

(4) An appointed surrogate parent has all of the special education rights and procedural safeguards available to the parent.

(5) A surrogate is not considered an employee of a contractor or subcontractor solely on the basis that the surrogate is compensated from public funds.

(6) The duties of the surrogate parent are to:

(a) Protect the early intervention or special education rights of the child;

(b) Be acquainted with the child's disability and the child's EI or ECSE needs; and

(c) Represent the child in all matters relating to the identification, evaluation and assessment, IFSP services, or the provision of a free appropriate public education to the child receiving ECSE and any other EI/ECSE rights.

(7) A surrogate has the same rights granted to a parent in a hearing under OAR 581-015-2870 if the identification, evaluation, IFSP or placement of the child is contested.

(8) A parent may give written consent for a surrogate to be appointed. When a parent requests that a surrogate be appointed, the parent retains all parental rights to receive notice under OAR 581-015-2745 through 581-015-2755 and all of the information provided to the surrogate. The surrogate, alone, is responsible for all matters relating to the special education of the child unless the parent revokes consent for the surrogate's appointment. If a parent gives written consent for a surrogate to be appointed, the parent may revoke consent at any time by providing a written request to revoke the surrogate's appointment.

(9) The contractor or subcontractor may change or terminate the appointment of a surrogate when:

(a) The person appointed as surrogate is no longer willing to serve;

(b) The child is no longer eligible for EI or ECSE services;

(c) The legal guardianship of the child is transferred to a person who is able to carry out the role of the parent;

(d) A foster parent is identified who can carry out the role of parent under OAR 581-015-2700;

(e) The appointed surrogate is no longer eligible;

(f) The child moves to another subcontractor area; or

(g) The child is no longer a ward of the state.

(10) A person appointed as surrogate will not be held liable for actions taken in good faith on behalf of the parent in protecting the special education rights of the child.

(11) The contractor or subcontractor must not appoint a surrogate solely because the parent is uncooperative or unresponsive to the EI or ECSE needs of the child.

Stat. Auth.: ORS 343.475, 343.531,

Stats. Implemented: ORS 343.475 & 343.531; 34 CFR 300.519

Hist.: EB 12-1993, f. & cert. ef. 3-25-93; EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03; ODE 1-2004, f. & cert. ef. 1-15-04; Renumbered from 581-015-0935, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2765

Independent Education Evaluation — ECSE

(1) Any parent of a preschool child with disabilities three years of age through the age of eligibility for public school may request an independent education evaluation at the expense of:

(a) The school district if the parent disagrees with an evaluation obtained by the school district; or

(b) The contracting agency if the parent disagrees with an evaluation obtained by the contractor or subcontractor.

(2) Agencies from (1)(a) and (b) of this rule must follow the procedures in OAR 581-015-2305 when responding to a parent request for an independent education evaluation.

Stat. Auth.: ORS 343.475, 343.531

Stats. Implemented: ORS 343.475, 343.495, 343.531, 34 CFR 300.502

Hist.: ODE 24-2000, f. & cert. ef. 10-16-00; Renumbered from 581-015-0962,

ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2770

Confidentiality of Records for Preschool Children with Disabilities

Contractors and subcontractors must follow the rules and procedures in OAR 581-015-2030 and 34 CFR 303.400 through 303.416 for confidentiality of records for preschool children with disabilities with the following exception: “School district” means contractors or subcontractors.

Stat. Auth.: ORS 343.475, 343.485

Stats. Implemented: ORS 343.485 & 34 CFR 303.400–303.417

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; ODE 24-2000, f. & cert. ef. 10-16-00;

Renumbered from 581-015-1010, ODE 10-2007, f. & cert. ef. 4-25-07; ODE

13-2012(Temp), f. 3-30-12, cert. ef. 4-2-12 thru 9-1-12; ODE 15-2012, f. 6-8-

12, cert. ef. 6-11-12

581-015-2774

Referral Procedures

Children must be referred to the lead agency for Child Find purposes as soon as possible, but in no case more than seven days after the child has been identified.

(1) This applies to all referrals including infants and toddlers under the age of three who are the subjects of a substantiated case of child abuse or neglect, or who are identified as directly affected by illegal drug abuse or withdrawal symptoms from prenatal drug exposure.

(2) Primary referral sources may include: hospitals including prenatal facilities, physicians, parents, child care programs, LEAs and schools, public health facilities, other public health or social service agencies, other clinics or health care providers, public agencies and staff in the child welfare system, homeless family shelters, and domestic violence shelters and agencies.

Stat. Auth.: ORS 326.051, 343.475

Stats. Implemented: 34 CFR 303.303

Hist.: ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2775

EI Evaluation

(1) General.

(a) A public agency must conduct an evaluation or reevaluation process in accordance with this rule before determining that a child qualifies for early intervention (EI) services, changing the child’s eligibility, or terminating the child’s eligibility under OAR 581-015-2780.

(b) EI evaluations and reevaluations must be conducted in accordance with OAR 581-015-2790(8) and (9)(b)-(f).

(2) Request for initial evaluation. Consistent with the consent requirements in OAR 581-015-2730:

(a) A parent or public agency may initiate a request for an initial evaluation to determine if a child qualifies for EI services.

(b) A public agency must refer a child as soon as possible, but in no case more than seven days after the child has been identified.

(3) When initial evaluation must be conducted. An initial evaluation must be conducted to determine if a child is eligible for EI services when a public agency suspects or has reason to suspect that the child has a disability, developmental delay, or condition likely to result in developmental delay.

(4) Evaluation planning. Before conducting any evaluation or reevaluation, the public agency must conduct evaluation planning in accordance with OAR 581-015-2115.

(5) Notice and consent.

(a) Before conducting any evaluation or reevaluation, the public agency must provide notice to the parent in accordance with OAR 581-015-2745 that describes any evaluation procedures the agency proposes to conduct as a result of the evaluation planning process.

(b) Before conducting any evaluation or reevaluation, the public agency must obtain written consent for evaluation in accordance with OAR 581-015-2730 and 581-015-2740.

(c) If the public agency refuses an evaluation or reevaluation requested by the parent, the public agency must provide the parent with prior written notice under OAR 581-015-2745.

(d) Parents may challenge the public agency’s refusal to conduct an evaluation or reevaluation under OAR 581-015-2870.

(6) EI Evaluation requirements: An EI evaluation or reevaluation must:

(a) Be conducted by a multidisciplinary team representing two or more separate disciplines or professions, including persons who are knowledgeable about the child;

(b) Assess the child’s level of functioning in all the following areas: cognitive development, physical development including vision and hearing, communication development, social or emotional development, and adaptive development;

(c) Be based on informed clinical opinion;

(d) Be completed in time to conduct the initial IFSP meeting within 45 calendar days from the date of referral, except when the parent has not provided consent for the initial evaluation, or the initial assessment of the child, despite documented, repeated

attempts by the lead agency or EI provider to obtain parental consent.

(A) These exceptional circumstances must be documented in the child's early intervention records and note the extenuating family circumstances or the lead agency or EI providers attempts to obtain consent;

(B) The initial evaluation, assessment, or initial IFSP meeting must be completed as soon as possible after the documented circumstances described no longer exist or consent is obtained;

(C) An interim IFSP should be developed and implemented to the extent appropriate; and

(e) Include:

(A) For a child suspected of having autism spectrum disorder, deafblindness, hearing impairment, orthopedic impairment, traumatic brain injury, or visual impairment, the evaluation requirements in OAR 581-015-2130 through 581-015-2180 for the respective disability; or

(B) A diagnosis of a physical or mental condition as described under in OAR 581-015-2780(3)(b); or

(C) An evaluation for determining a developmental delay as follows:

(i) At least one norm-referenced, standardized test addressing the child's level of functioning in each of the following developmental areas: cognitive; physical (including vision and hearing); communication; social or emotional; and adaptive;

(ii) At least one additional procedure to confirm the child's level of functioning in each area of suspected delay listed in subsection (6)(e)(C)(i) of this rule;

(iii) At least one 20-minute observation of the child;

(iv) A review of previous testing, medical data and parent reports; and

(v) Other evaluative information as necessary to determine eligibility.

(f) All evaluations and assessments of a child must be conducted in the native language of the child, unless it is clearly not feasible to do so.

(7) Reevaluation. A public agency must conduct a reevaluation of a child receiving early intervention services in accordance with OAR 581-015-2105 if the public agency determines that the EI needs of the child warrant a reevaluation, or, subject to subsection (5), if the child's parent or EI specialist requests a reevaluation.

Stat. Auth.: ORS 343.475

Stats. Implemented: ORS 343.475, 34 CFR 303.24, 34 CFR 303.310

Hist.: EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0945, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2780

EI Eligibility

(1) Upon completing the administration of tests and other evaluation materials, the designated referral and evaluation agency must determine, through a multidisciplinary team, whether a child is eligible for EI services by following the procedures in this rule.

(2) The multidisciplinary team must include the parents, in accordance with OAR 581-015-2750, and individuals from two or more separate disciplines or professions, including persons who are knowledgeable about the child.

(3) To be eligible for EI services, the child must meet the minimum criteria for subsection (a), (b) or (c), below:

(a) Categorical:

(A) The child meets the minimum criteria for one of the following disability categories in OAR 581-015-2130 through 581-015-2180: autism spectrum disorder, deafblindness, hearing impairment, orthopedic impairment, traumatic brain injury or visual impairment.

(B) If the child meets the disability criteria for a categorical eligibility in subsection (A), the child's disability does not need to be presently adversely affecting the child's development for the child to be eligible for EI services.

(b) Medical: The child has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay, as documented by one of the following with the appropriate

State Board licensure: a physician, a physician assistant, or a nurse practitioner.

(c) Developmental delay: The child experiences a developmental delay and as a result needs EI services. Developmental delay means two standard deviations or more below the mean in one or more of the following developmental areas, or 1.5 standard deviations below the mean in two or more of the developmental areas:

(A) Cognitive development;

(B) Physical development;

(C) Communication development;

(D) Social or emotional development;

(E) Adaptive development.

(4) The multidisciplinary team must prepare an evaluation report and a written statement of eligibility.

(a) The evaluation report(s) must describe and explain the results of the evaluation conducted.

(b) The written statement of eligibility must include:

(A) A list of the evaluation data considered in determining the child's eligibility;

(B) A determination of whether the child meets the minimum criteria for EI as described in (3) of this part; and

(C) The signature of each member of the team signifying his or her concurrence or dissent.

(5) For a child who may have disabilities in more than one category, the team need only qualify the child for EI services under one disability category, however:

(a) The child must be evaluated in all areas of development and areas of suspected disability; and

(b) The child's IFSP must address all of the child's early intervention needs.

(6) The multidisciplinary team must give the parents a copy of the eligibility statement and evaluation report.

(7) The contractor or subcontractor must notify the child's resident district upon determination of eligibility for EI services.

(8) A child found eligible under this rule is eligible for regional services if the child meets the criteria under OAR 581-015-2550 for vision impairment, hearing impairment, autism spectrum disorder, severe orthopedic impairment or traumatic brain injury.

Stat. Auth.: ORS 343.513

Stats. Implemented: ORS 343.513, 34 CFR 303.24

Hist.: EB 4-1995, f. & cert. ef. 1-24-95; EB 27-1995, f. & cert. ef. 12-11-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 8-2001, f. & cert. ef. 1-29-01; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0946, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12; ODE 20-2012, f. & cert. ef. 8-1-12

581-015-2785

Provision of EI Services Before an Evaluation and Assessment Are Completed

Early intervention services for an eligible child and the child's family may begin before the completion of the evaluation and assessment process described in OAR 581-015-2775 if the following conditions are met:

(1) Parental consent for evaluation and services is obtained;

(2) An interim IFSP is developed that includes:

(a) The name of the service coordinator who will be responsible for implementation of the interim IFSP and coordination with other agencies and persons; and

(b) The EI services that have been determined to be needed immediately by the child and the child's family; and

(c) The evaluation and assessment are completed within the 45 calendar days as required in OAR 581-015-0945(1)(d).

Stat. Auth.: ORS 343.475

Stats. Implemented: ORS 343.475

Hist.: EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03; Renumbered from 581-015-0949, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2786

Dispute Resolution Within and Between Public Agencies — Early Intervention (EI) Services

(1) Each public agency involved in providing early intervention services may use its own internal dispute resolution procedures to resolve, in a timely manner, internal disagreements about payments for a particular service or other matters related to providing early intervention services.

(2) A public agency's internal dispute resolution procedures may not result in delaying the provision of early intervention services.

(3) Public agencies may not delay or deny the timely provision of early intervention services during the pendency of dispute resolution between public agencies regarding financial responsibilities.

Stat. Auth.: ORS 343.475, 343.511

Stats. Implemented: ORS 343.475, 343.495, 343.511, 34 CFR 303.120, 303.511, 303.520, 303.521

Hist.: ODE 30-2012, f. 11-7-12, cert. ef. 11-9-12

581-015-2790

ECSE Evaluation

(1) General. A public agency must conduct an evaluation or reevaluation process in accordance with this rule before:

(a) Determining that a child is a child with a disability under OAR 581-015-2795; or

(b) Determining that a child continues to have a disability under OAR 581-015-2795; or

(c) Changing the child's eligibility; or

(d) Terminating the child's eligibility as a child with a disability.

(2) Request for initial evaluation. Consistent with the consent requirements in OAR 581-015-2735, a parent or public agency may initiate a request for an initial evaluation to determine if a child qualifies for ECSE services.

(3) When initial evaluation must be conducted.

(a) An initial evaluation must be conducted to determine if a child is eligible for ECSE services when a public agency suspects or has reason to suspect that:

(A) The child has a disability that has an adverse impact on the child's education or development; and

(B) The child may need ECSE services as a result of the disability.

(b) The public agency must designate a team to determine whether an initial evaluation will be conducted.

(A) The team must include the parent and at least two professionals, at least one of whom is a specialist knowledgeable and experienced in the evaluation and education of children with disabilities.

(B) The team may make this decision without a meeting. If a meeting is held, parents must be invited to participate in accordance with OAR 581-015-2750.

(4) Evaluation planning. Before conducting any evaluation or reevaluation, the public agency must conduct evaluation planning in accordance with OAR 581-015-2115.

(5) Notice and consent.

(a) Before conducting any evaluation or reevaluation, the public agency must provide notice to the parent in accordance with OAR 581-015-2745 that describes any evaluation procedures the agency proposes to conduct as a result of the evaluation planning process.

(b) Before conducting any evaluation or reevaluation, the public agency must obtain written consent for evaluation in accordance with OAR 581-015-2735 and 581-015-2740.

(c) If the public agency refuses an evaluation or reevaluation requested by the parent, the public agency must provide the parent with prior written notice under OAR 581-015-2745.

(d) Parents may challenge the public agency's refusal to conduct an evaluation or reevaluation under OAR 581-015-2870.

(6) ECSE evaluation requirements: For a child suspected of being eligible for ECSE services, the following evaluation must be conducted:

(a) For a child suspected of having any of the following disabilities, an evaluation in all areas of the suspected disability following OAR 581-015-2130 through 581-015-2180, respectively:

(A) Autism spectrum disorder;

(B) Communication disorder;

(C) Deafblindness;

(D) Emotional disturbance;

(E) Hearing impairment;

(F) Intellectual Disability;

(G) Orthopedic impairment;

(H) Other health impaired;

(I) Specific learning disability;

(J) Traumatic brain injury;

(K) Visual impairment; or

(b) For a child suspected of having a developmental delay, an evaluation that includes:

(A) At least one norm referenced, standardized test in each area of suspected delay;

(B) At least one additional procedure to confirm the child's level of functioning in each area of suspected delay;

(C) At least one 20-minute observation of the child;

(D) Review of previous testing, medical data, and parent reports; and

(E) Other evaluative information as necessary to determine eligibility.

(7) Reevaluation.

(a) Public agencies must ensure that a reevaluation of each child with a disability is conducted in accordance with OAR 581-015-2115, subject to subsection (5) and (7)(b) in this rule:

(A) If the public agency determines that the ECSE needs of the child warrant a reevaluation; or

(B) If the child's parent or ECSE specialist requests a reevaluation.

(b) A reevaluation for each child with a disability:

(A) May occur not more than once a year, unless the parent and public agency agree otherwise; and

(B) Must occur at least every three years, unless the parent and public agency agree that a reevaluation is unnecessary.

(8) Conduct of evaluation. In conducting the evaluation, the public agency must:

(a) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent that may assist in determining:

(A) Whether the child is eligible for EI/ECSE services; and

(B) The content of the child's IFSP, including information related to enabling the child to be involved in and progress in appropriate activities;

(b) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and

(c) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(9) Other evaluation procedures. Each public agency must ensure that:

(a) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;

(b) Assessments and other evaluation materials used to assess a child under this part:

(A) Are selected and administered so as not to be discriminatory on a racial or cultural basis;

(B) Are provided and administered in the child's native language or other mode of communication as determined developmentally appropriate for the child by qualified personnel conducting the evaluation or assessment, and in the form most likely to yield accurate information on what the child knows and can do academically.

cally, developmentally, and functionally, unless it is clearly not feasible to do so;

(C) Are used for the purposes for which the assessments or measures are valid and reliable;

(D) Are administered by trained and knowledgeable personnel; and

(E) Are administered in accordance with any instructions provided by the producer of the assessments.

(c) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(d) Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

(e) The evaluation is sufficiently comprehensive to identify all of the child's EI/ECSE and related services needs, whether or not commonly linked to the disability category in which the child has been classified; and

(f) The evaluation includes assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child.

(10) Evaluation timelines:

(a) Initial. An initial evaluation must be completed within 60 school days from written parent consent to the date of the meeting to consider eligibility.

(b) Reevaluation. A reevaluation must be completed within 60 school days from written parent consent (or from the date the evaluation is initiated under OAR 581-015-2740(3)) to the date of the meeting to consider eligibility, continuing eligibility or the student's educational needs.

(c) Exceptions. An evaluation may be completed in more than 60 school days under the following circumstances documented in the child's educational record:

(A) The parents of a child repeatedly fail or refuse to produce the child for an evaluation, or for other circumstances outside the school district's control;

(B) The student is a transfer student in the process of reevaluation and the public agency and the parents agree to a different length of time to complete the evaluation in accordance with subsection (d); or

(C) The public agency and parent agree to extend the timeline for an evaluation to determine eligibility for specific learning disabilities in accordance with OAR 581-015-2170.

(d) Transfer students.

(A) When a child with disabilities transfers from one EI/ECSE program to another EI/ECSE program in the same school year, the previous and current EI/ECSE programs must coordinate any pending assessments as necessary and as expeditiously as possible to ensure prompt completion of the evaluation.

(B) The exception under subsection (10)(c) only applies if the current EI/ECSE program is making sufficient progress to ensure a prompt completion of the evaluation and the parent and current EI/ECSE program agree to a specific time for completion of the evaluation.

Stat. Auth.: ORS 343.475

Stats. Implemented: ORS 343.475, 34 CFR 303.25, 34 CFR 303.321(a)(5)

Hist.: EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03; Renumbered from 581-015-0941, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2795

ECSE Eligibility

(1) Upon completing the administration of tests and other evaluation materials, the designated referral and evaluation agency must determine, through a team, whether a child is eligible for ECSE services by following the procedures in this rule.

(2) The team must include the parents, in accordance with OAR 581-015-2750, and two or more professionals, at least one of whom is knowledgeable and experienced in the evaluation and education of children with the suspected disability. The team may be the child's IFSP team.

(3) In determining eligibility for a child suspected of having a specific learning disability, the team must also include:

(a) The child's preschool teacher or, if the child does not have a preschool teacher, a preschool teacher qualified to teach a child of his or her age; and

(b) A person qualified to conduct individual diagnostic examinations of children, such as a psychologist, speech-language pathologist, or other qualified personnel.

(4) To be eligible for ECSE services, the child must meet the following minimum criteria:

(a) Categorical. The child meets the minimum criteria for one of the disability categories in OAR 581-015-2130 through 581-015-2180; or

(b) Developmental delay.

(A) The child has a developmental delay of 1.5 standard deviations or more below the mean in two or more of the developmental areas listed under OAR 581-015-2780(3)(c);

(B) The child's disability has an adverse impact on the child's developmental progress; and

(C) The child needs ECSE services.

(5) The team must prepare an evaluation report and a written statement of eligibility.

(a) The evaluation report(s) must describe and explain the results of the evaluation conducted.

(b) The written statement of eligibility must include:

(A) A list of the evaluation data considered in determining the child's eligibility;

(B) A determination of whether the child meets the minimum criteria for ECSE as described in (4) of this part;

(c) A determination of whether the primary basis for the suspected disability is:

(A) Lack of instruction in reading or math; or

(B) Limited English proficiency.

(d) A determination of whether the child's disability has an adverse impact on the child's developmental progress;

(e) A determination of whether, as a result of the disability the child needs ECSE services; and

(f) The signature of each member of the team indicating agreement or disagreement with the eligibility determination.

(6) When determining eligibility for a child suspected of having a specific learning disability, the team must prepare a written report following the procedures in OAR 581-015-2170.

(7) The team may not determine that a child is eligible for ECSE services if:

(a) The determinant factor for that eligibility determination is:

(A) Lack of appropriate instruction in reading (including the essential components of reading) or math; or

(B) Limited English proficiency; and

(b) The child does not otherwise meet the eligibility criteria under this rule.

(8) For a child who may have disabilities in more than one category, the team need only qualify the child for ECSE services under one disability category, however;

(a) The child shall be evaluated in all areas of suspected disability; and

(b) The child's IFSP shall address all of the child's special education needs.

(9) The team must give the parents a copy of the eligibility statement and evaluation report.

(10) The contractor or subcontractor must notify the child's resident school district upon determination of eligibility for ECSE services.

Stat. Auth.: ORS 343.513

Stats. Implemented: ORS 343.513

Hist.: EB 4-1995, f. & cert. ef. 1-24-95; EB 27-1995, f. & cert. ef. 12-11-95; ODE 24-2000, f. & cert. ef. 10-16-00; Renumbered from 581-015-0943, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2800

Termination of Eligibility — EI/ECSE

(1) A school district must evaluate a child with a disability in accordance with OAR 581-015-2775 and 2790 before determining that the child is no longer a child with a disability.

(2) The contractor or subcontractor must provide written notice under OAR 581-015-2745 when a team determines that a child is no longer eligible for EI or ECSE services.

Stat. Auth.: ORS 343.475, 343.513

Stats. Implemented: ORS 343.475, 343.513

Hist.: ODE 24-2000, f. & cert. ef. 10-16-00; Renumbered from 581-015-0955, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2805

EI and ECSE Transition

(1) The lead agency will describe in a written document how it will meet the transition requirements set forth in 34 CFR 303.29.

(2) Transition from EI to ECSE or other services:

(a) Before a child reaches the age of eligibility for ECSE, the school district must obtain parental consent for initial evaluation under OAR 581-015-2735 and conduct an initial evaluation under OAR 581-015-2790.

(b) With the approval of the child's family and in accordance with OAR 581-015-2810, a transition meeting to establish a transition plan must be held at least 90 calendar days, and at the discretion of the parties, up to nine months before the child's third birthday and must include:

(A) Discussions with and training of parents regarding future services, placements and other matters related to the child's transition;

(B) Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to and function in a new setting or, if appropriate, steps to exit from the program;

(C) A review of the child's program options for the period from the child's third birthday through the remainder of the school year; and

(D) With parental consent, the transmission of information about the child to the ECSE subcontractor or other service provider, if different than the child's EI subcontractor including:

(i) Evaluation and assessment information; and

(ii) Copies of IFSPs that have been developed and implemented.

(c) For children eligible for ECSE services under OAR 581-015-2795, contractors or subcontractors must initiate and conduct an IFSP meeting on or before the child's third birthday to:

(A) Review and revise the IFSP;

(B) Determine placement; and

(C) Obtain parent consent for initial placement in special education. This is the initial consent for placement in special education for school-age students.

(3) Transition from ECSE to School-age Special Education Services:

(a) Before a child reaches the age of eligibility for public school, the district must:

(A) For children previously eligible with a developmental delay and suspected of having a disability under OAR 581-015-2130 through 581-015-2180, conduct an evaluation and determine eligibility for school age special education services; or

(B) For children previously eligible in a disability category under OAR 581-015-2130 through 581-015-2180, continue the child's eligibility for school age special education services. The school district may conduct a reevaluation and reconsider eligibility for special education services.

(b) The school district and contractor or subcontractor must hold a meeting during the year before the child is eligible to enter public school:

(A) To determine steps to support the child's transition from ECSE to public schooling or other educational setting; and

(B) For a child eligible for school age special education services, to develop an IEP that is in effect at the beginning of the school year.

Stat. Auth.: ORS 343.473, 343.521

Stats. Implemented: ORS 343.521, 34 CFR 300.124, 34 CFR 303.209

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; EB 4-1995, f. & cert. ef. 1-24-95; Administrative Correction 12-1-97; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03; ODE 1-2004, f. & cert. ef. 1-15-04; Renumbered from 581-015-0960, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2810

IFSP Meeting Procedures and Timelines

(1) Contractors or subcontractors must conduct a meeting to develop an initial IFSP within:

(a) Forty-five calendar days from the date the child is referred to and determined eligible for EI services; and

(b) Thirty calendar days from the date the child is determined eligible for ECSE services.

(2) Contractors or subcontractors must initiate and conduct a meeting to review and revise the IFSP every 365 days to:

(a) Determine whether the annual goals for the child are being achieved; and

(b) Revise the IFSP as appropriate to address:

(A) Any lack of expected progress toward the annual goals and appropriate activities;

(B) The results of any reevaluation;

(C) Existing information about the child provided to, or by, the parents;

(D) The child's anticipated needs; or

(E) Other matters.

(3) For a child under age three:

(a) Contractors or subcontractors must initiate and conduct a review of the IFSP, with the participation of the child's parents consistent with OAR 581-015-2750 and 581-015-2755, every six months or more frequently if conditions warrant or if the family requests such a review.

(b) The purpose of this review is to determine:

(A) The degree to which progress on major outcomes or annual goals is being made; and

(B) Whether revision of major outcomes or goals or services is needed.

(c) This review may be carried out by a meeting or by another means that is acceptable to the parents and other participants. However, if IFSP revisions are necessary, an IFSP meeting must be conducted.

(4) Contractors or subcontractors must initiate and conduct, with the approval of the child's family, an IFSP meeting to plan the child's transition to ECSE services or other preschool services at least 90 calendar days, and at the discretion of the parties, up to nine months, before the child's third birthday and the lead agency or its contractors must notify the LEA and SEA for the area in which the toddler resides that the toddler on his third birthday will reach the age of eligibility for services under Part B of the Act as determined in accordance with State law.

(5) For children eligible for ECSE services under OAR 581-015-2795, contractors or subcontractors must initiate and conduct an IFSP meeting on or before the child's third birthday in accordance with OAR 581-015-2805.

(6) Contractors or subcontractors must conduct an IFSP meeting if they believe that a change in the IFSP may be necessary to ensure the provision of appropriate EI services for a child under age three or a free appropriate public education to a child over age three.

(7) A parent may request a meeting at any time to review or revise the IFSP.

(8) In response to a parent request for IFSP meeting, the contractor or subcontractor must hold an IFSP meeting within a reasonable time.

Stat. Auth.: ORS 343.475, 343.521

Stats. Implemented: ORS 343.475, 343.521, 34 CFR 300.101

Hist.: ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03; ODE 15-2003, f. & cert. ef. 8-14-03; ODE 1-2004, f. & cert. ef. 1-15-04; Renumbered from 581-015-0968, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2815

IFSP Content

(1) Contractors or subcontractors must use IFSP forms and directions published by the Oregon Department of Education.

(2) Oregon Department of Education IFSP forms combine the content requirements for IEPs under Part B of IDEA, IFSPs under Part C of IDEA, and IFSPs under ORS 343.521.

(3) Each individualized family service plan must contain:

(a) A statement of the child's present level of development, including how the child's disability affects the child's participation in appropriate activities for the child's age. For a child under age three, the statement must include present levels of physical development including vision, hearing and health status, cognitive development, communication development, social development and adaptive development. The statement must be based on information from assessments using professionally acceptable objective criteria.

(b) A statement of major outcomes or annual goals and short-term objectives expected to be achieved for the child and family related to:

(A) Meeting the child's needs that result from the child's disability to enable the child to participate in appropriate activities;

(B) Meeting each of the child's other developmental needs that result from the child's disability.

(c) For a child under age three, a statement of the specific early intervention services, based on scientifically based research to the extent practicable, to be provided for the child and to the family to advance toward attaining the major outcomes or annual goals (including pre-literacy, language, and numeracy skills, as developmentally appropriate for the child).

(d) For a child age three and older, the IFSP contains IEP content including, a statement of ECSE and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for personnel that will be provided for the child:

(A) To advance appropriately toward attaining the annual goals;

(B) To participate in appropriate activities and to participate in extracurricular and other nonacademic activities; and

(C) To be educated and participate with other children with disabilities and children without disabilities.

(e) For a child under age three, with concurrence of the family, a statement of the family's resources, priorities, concerns and goals related to enhancing the development of the child, based on information obtained through an assessment tool and also through an interview with those family members who elect to participate in the assessment.

(f) The projected dates for initiation of services and modifications and the anticipated frequency, location, intensity, method and duration of the services as defined in OAR 581-015-2700 and modifications described in subsection (3)(d) of this rule and the payment arrangements, if any.

(g) The name of the service coordinator from the profession, including service coordination, most immediately relevant to the child's or family's needs (or who is otherwise qualified to carry out all applicable EI/ECSE responsibilities) responsible for coordinating the involvement of the family and agencies in implementing early intervention and other services, including transition services. The contractor or subcontractor may:

(A) Assign the same service coordinator who was appointed at the time that the child was initially referred for evaluation; or

(B) Appoint a new service coordinator.

(h) For a child under age three:

(A) To the maximum extent appropriate, the natural environments in which early intervention services will be provided; and

(B) A justification of the extent, if any, to which services will not be provided in a natural environment.

(i) For a child age three and older, an explanation of the extent, if any, to which the child will not participate with children

without disabilities in the regular class and activities described in subsection (3)(d) of this rule.

(j) A statement of:

(A) How the progress toward major outcomes or annual goals will be measured, including the criteria, procedures and timelines used to determine:

(i) The degree to which progress toward achieving the outcomes or goals is being made; and

(ii) Whether revisions of the outcomes or goals or services are necessary.

(B) For a child age three and older, how the child's parents will be regularly informed of:

(i) Their child's progress toward major outcomes or annual goals; and

(ii) The extent to which that progress is sufficient to enable the child to achieve the outcomes or goals by the annual IFSP review date.

(k) The steps to be taken and services provided to support the transition of the child from early intervention services to early childhood special education or other appropriate services, in accordance with OAR 581-015-2805, 581-015-2750, and 581-015-2810.

(l) The steps to be taken to support the transition of the child from early childhood special education to public schooling or other education setting, in accordance with OAR 581-015-2805, 581-015-2750, and 581-015-2810.

(m) A statement of other services, such as medical services, that the child may need but are not early intervention or early childhood special education services including the funding sources used in paying for those services or the steps to be taken to secure those services through public or private sources. This provision does not apply to routine medical services (e.g., immunizations, and "well-baby" care) unless a child needs those services and the services are not otherwise available or being provided.

Stat. Auth.: ORS 343.475 & 343.521

Stats. Implemented: ORS 343.521

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03; ODE 1-2004, f. & cert. ef. 1-15-04; Renumbered from 581-015-0970, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 26-2008, f. 10-23-08, cert. ef. 10-24-08; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2820

IFSP Team Consideration and Special Factors

(1) In developing, reviewing and revising the child's IFSP, the IFSP team must consider:

(a) The strengths of the child and the concerns of the parents for enhancing the development of their child; and

(b) The results of the initial or most recent evaluation of the child; and

(c) For a child age three and older, the academic, developmental and functional needs of the child.

(2) For children age three and older, in developing, reviewing and revising the child's IFSP the IFSP team must consider the following special factors:

(a) The communication needs of the child; and

(b) Whether the child requires assistive technology devices and services.

(3) For children age three and older, in developing, reviewing and revising the IFSP of children described below, the IFSP team must consider the following additional special factors:

(a) For a child whose behavior impedes his or her development or that of others, consider strategies, positive behavioral interventions and supports to address that behavior;

(b) For a child or family with limited English proficiency, consider the language needs of the child and the family as those needs relate to the child's IFSP;

(c) For a child who is blind or visually impaired, instruct the child in pre-literacy or readiness activities related to the use of Braille unless the IFSP determines, after an evaluation of the child, that this instruction is not appropriate for the child;

(d) For a child who is deaf or hard of hearing, consider the child's language and communication needs, including developmental level, full range of needs, and opportunities for direct instruction

and direct communications with peers and professional personnel in the child's language and communication mode.

(4) If, in considering these special factors, the IFSP team determines that a child needs a particular device or service (including intervention, accommodation or other program modification) for the child to receive free appropriate public education, the IFSP team must include a statement to that effect in the child's IFSP.

(5) Nothing in OAR 581-015-2815 or this rule may be construed to require the IFSP team to include information under one component of a child's IFSP that is already contained under another component of the child's IFSP.

Stat. Auth.: ORS 343.475, 343.521

Stats. Implemented: ORS 343.475, 343.521

Hist.: ODE 2-2003, f. & cert. ef. 3-10-03; ODE 1-2004, f. & cert. ef. 1-15-04;

Renumbered from 581-015-0972, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2825

Participants for IFSP Team Meetings and Reviews

(1) Each initial and annual IFSP meeting must include the following participants:

(a) The child's parent or parents;

(b) The child's EI or ECSE specialist and, as appropriate, persons who will be providing services to the child or family; for EI, this must include two or more individuals from separate disciplines or professions, and one of these individuals must be the service coordinator.

(c) A representative of the contractor or subcontractor who may be another member of the team and who is:

(A) Qualified to provide or supervise the provision of EI or ECSE services to meet the unique needs of children with disabilities;

(B) Knowledgeable of typical child development and appropriate activities for infants and young children; and

(C) Knowledgeable about the availability of resources.

(d) For a child eligible for EI services, the service coordinator who is responsible for implementation of the IFSP and may be the child's EI specialist;

(e) For a child who is eligible for ECSE services, the child's preschool teacher if the child is or may be participating in a regular preschool;

(f) Family members and/or advocates as requested by the parents;

(g) Other individuals, including related services personnel as appropriate, invited by the parent, primary contractor, or subcontractor who have knowledge or special expertise regarding the child;

(h) An individual, who may be another member of the team who:

(A) Was involved in conducting the evaluation of the child;

(B) Is knowledgeable about the child's disability; and

(C) Can interpret the developmental or instructional implications of the evaluation; and

(i) A representative of the school district in which the child resides during the year before the child enters school.

(2) The regular preschool teacher must participate, to the extent appropriate, in the development, review and revision of the child's IFSP, including assisting in the determination of:

(a) Necessary modifications to appropriate preschool activities in the classroom and participation in the preschool environment;

(b) Supplementary aids and services, program modifications or supports for preschool personnel that will be provided for the child; and

(c) Appropriate positive behavioral interventions and strategies for the child.

(3) For a child birth to three the IFSP team must be multidisciplinary as defined in OAR 581-015-2700.

(4) IFSP team attendance for children age 3 and older:

(a) A member of the IFSP team described in subsection (1)(b) through (1)(e) is not required to attend an IFSP meeting, in whole or in part, if the parent of a child with a disability and the contractor or subcontractor agree in writing that the attendance of the member

is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting.

(b) A member of the IFSP team described in subsection (1)(b) through (1)(e) may be excused from attending an IFSP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of curriculum or related services, if:

(A) The parent and contractor or subcontractor consent in writing to the excusal; and

(B) The member submits, in writing to the parent and the IFSP team, input into the development of the IFSP before the meeting.

(5) Each review must include the participants in subsections (1)(a), (b), (d) and (2), and if feasible to do so (1) (f) of this rule. When the review indicates any changes in the IFSP, then the individualized meeting must follow all IFSP procedural requirements.

(6) For the purposes of subsection (1)(h), if such an individual is unable to attend the meeting, arrangements must be made for the person's involvement through other means, including:

(a) Participating in a telephone conference call;

(b) Having a knowledgeable authorized representative attend the meeting; or

(c) Making pertinent records available at the meeting.

Stat. Auth.: ORS 343.475, 343.521

Stats. Implemented: ORS 343.475, 343.521, 300 CFR 303.24

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03; ODE 1-2004, f. & cert. ef. 1-15-04; Renumbered from 581-015-0980, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2830

Implementation of the IFSP

(1) An IFSP must:

(a) Be written before EI services or ECSE and related services are provided to the child;

(b) Begin as soon as possible following the meeting; and

(c) Be provided year round for children receiving EI services, unless agreed to otherwise by the parents; or

(d) Be in effect by the child's third birthday and at the beginning of the school year for children receiving ECSE services.

(2) If a child's third birthday occurs during the summer, the child's IFSP team must determine when services begin under the IFSP.

(3) Contractors and subcontractors must:

(a) Ensure that the IFSP is available as soon as possible and at no cost to the parents. They must also ensure copies of the IFSP are available to each regular preschool teacher, EI/ECSE specialist, related service provider and other service provider who is responsible for its implementation; and

(b) Inform each teacher and provider described in (2)(a) of his or her specific responsibilities for implementing the child's IFSP and the specific accommodations, modifications and supports that must be provided for on behalf of the child in accordance with the IFSP.

(4) Contractors or subcontractors must provide EI or ECSE and related services to a child with a disability in accordance with an IFSP.

(5) Nothing in this rule limits a parent's right to ask for revisions of their child's IFSP or to invoke due process procedures.

Stat. Auth.: ORS 343.475, 343.521

Stats. Implemented: ORS 343.475, 343.521, 34 CFR 300.101, 34 CFR 303.409, Hist.: EB 23-1992, f. & cert. ef. 6-23-92; EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03; ODE 1-2004, f. & cert. ef. 1-15-04; Renumbered from 581-015-0990, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2835

Natural Environments in EI

Contractors or subcontractors must ensure that:

(1) To the maximum extent appropriate to the needs of the child and family, EI services are provided in natural environments, including the home and community settings in which children without disabilities participate; and

(2) The determination of the appropriate setting for providing EI services to an infant or toddler with a disability, including any

justification for not providing a particular EI service in the natural environment is:

- (a) Made by the IFSP Team (which includes the parent and other team members);
- (b) Consistent with the provisions of OAR-581-2700 and 581-015-2815(3)(h);
- (c) Based on the child's outcomes which are identified by the IFSP team.

Stat. Auth.: ORS 343.475

Stats. Implemented: ORS 343.475, 343.495, 34 CFR 303.344

Hist.: ODE 24-2000, f. & cert. ef. 10-16-00; Renumbered from 581-015-0995, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2840

Service Coordination

(1) For a child under age three, the contractor or subcontractor must:

- (a) Provide active ongoing service coordination as an EI service; and
- (b) Appoint a service coordinator as soon as possible when a referral is received.

(2) For a child age three and older, contractors and subcontractors may provide service coordination as an ECSE service.

(3) The service coordinator must:

(a) Coordinate all services across agency lines by serving as a single point of contact in helping parents obtain the services and assistance they need;

(b) Assist and enable parents of eligible children in gaining access to required EI services and other services identified in the IFSP;

(c) Facilitate the timely delivery of available services and conduct follow-up activities to determine that appropriate services are provided;

(d) Continuously seek the appropriate services in situations necessary to benefit the development of each child being served for the duration of the child's eligibility;

(e) Coordinate the performance of evaluation and assessments;

(f) Facilitate and participate in the development, review, and evaluation of IFSPs;

(g) Assist families in identifying available service providers;

(h) Coordinate and monitor the delivery of available services and other services that are identified in the IFSP to the child or family, including making appointments and referrals to providers for needed services;

(i) Inform families of their rights, their procedural safeguards, and the availability of advocacy services;

(j) Coordinate with medical and health providers;

(k) Facilitate the development of a transition plan to preschool, ECSE services, or other early childhood service, if appropriate; and

(l) Coordinate the funding sources for services required under this part.

Stat. Auth.: ORS 343.475

Stats. Implemented: ORS 343.475, 343.523, 34 CFR 303.34

Hist.: EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; Renumbered from 581-015-1120, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2845

Placement and Least Restrictive Environment in ECSE

(1) Contractors or subcontractors must ensure that:

(a) The placement of a child with a disability is determined by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and

(b) To the maximum extent appropriate to the needs of the child, ECSE services are provided in the least restrictive environment as defined in OAR 581-015-2240, including home and community settings in which children without disabilities participate.

(2) Each child's placement must be:

(a) Determined at least every 365 days;

(b) Based on the IFSP; and

(c) As close as possible to the child's home.

(3) Unless the IFSP of a child with a disability requires some other arrangement, the child must be educated in the public school or public program, if any, that he or she would attend if not disabled.

(4) The contractor must ensure that a continuum of alternative placements is available to meet the needs of preschool children with disabilities for special education and related services.

(a) The continuum must include placements in the home, hospitals, institutions, special schools, classrooms, and community childcare or preschool settings.

(b) The continuum must provide for supplementary services to be provided in conjunction with regular preschool placement.

(5) In determining the least restrictive environment, the team must consider the continuum of alternative placements and the following:

(a) Modifications needed to implement the child's IFSP;

(b) The level of support needed by the child;

(c) Any potential harmful effect on the child or on the quality of services which he or she needs;

(d) A child with a disability must not be removed from education in age appropriate classrooms or settings solely because of needed modifications.

(6) The team must ensure that, to the maximum extent appropriate to the needs of that child, ECSE services are provided in settings in which children without disabilities participate, including nonacademic services and activities.

Stat. Auth.: ORS 343.475

Stats. Implemented: ORS 343.475

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-1000, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2850

Free Appropriate Public Education (FAPE) for ECSE

(1) Contractors and subcontractors must provide ECSE and related services to all resident children from three years of age until the age of eligibility for public school.

(2) The requirements of this rule also apply to children with disabilities who have been suspended or expelled from preschool in accordance with OAR 581-015-2410 through 581-015-2440.

(3) For purposes of this rule, a preschool child with a disability is considered resident of the service area where the child is currently living, including children living in public or private residential programs, hospitals, and similar facilities. ORS 343.475(3)

(4) For purposes of this rule, "school district" means contractors or subcontractors.

Stat. Auth.: ORS 343.475

Stats Implemented: ORS 343.475

Hist.: ODE 24-2000, f. & cert. ef. 10-16-00; Renumbered from 581-015-1002, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2855

Extended Year Services for ECSE

(1) Contractors and subcontractors must ensure that extended year services are available as necessary to provide a free appropriate public education to children eligible for ECSE services.

(2) Extended year services must be provided only if the child's IFSP team determines, on an individual basis, in accordance with OAR 581-015-2755 and 581-015-2810 through 581-015-2830, that services are necessary for the provision of free appropriate public education to the child.

(3) A contractor or subcontractor may not:

(a) Limit extended year services to particular categories of disability; or

(b) Unilaterally limit the type, amount, or duration of those services.

(4) The purpose of extended year services is the maintenance of the child's learning skills or behavior, not the teaching of new skills or behavior.

(5) Contractors or subcontractors must develop criteria for determining the need for extended year services. The criteria must include:

(a) Regression and recoupment time based on documented evidence; or

(b) If no documented evidence, on predictions according to the professional judgment of the team.

(6) For the purposes of section (5) of this rule:

(a) “Regression” means significant loss of skills or behaviors in any area specified on the IFSP as a result of an interruption in ECSE services; and

(b) “Recoupment” means the recovery of skills or behaviors specified on the IFSP to a level demonstrated before the interruption of education services.

(7) For the purposes of this rule, “extended year services” means ECSE services and related services that:

(a) Are provided to a child with a disability;

(A) Beyond the normal service year of the contractor or subcontractor;

(B) In accordance with the child’s IFSP; and

(C) At no cost to the parents of the child; and

(b) Meet the standards of the Department.

Stat. Auth.: ORS 343.475

Stats. Implemented: ORS 343.475

Hist.: ODE 24-2000, f. & cert. ef. 10-16-00; Renumbered from 581-015-1003, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2860

Assistive Technology for ECSE

(1) Contractors or subcontractors must follow the rules and procedures in OAR 581-015-2055 to ensure that assistive technology devices or assistive technology services, or both, are available to preschool children with a disabilities age three through the age of eligibility for public school, if required as a part of the child’s special education, related services or supplementary aids and services.

(2) For the purposes of this rule, “school district” means contractors or subcontractors.

(3) For the purposes of this rule, “IEP” means IFSP.

Stat. Auth.: ORS 343.475

Stats. Implemented: ORS 343.475

Hist.: ODE 24-2000, f. & cert. ef. 10-16-00; Renumbered from 581-015-1005, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2863

Procedures for EI/ECSE Complaints

OAR 581-015-2030 applies for EI and ECSE programs.

Stat. Auth.: ORS 343.041

Stats. Implemented: ORS 343.041, 34 CFR 300.151-153; 34 CFR 300.504(a)(2)

Hist.: ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2865

Mediation

(1) The Department offers mediation, in accordance with OAR 581-015-2335, at no cost to the parties to resolve disputes involving any EI/ECSE matter, including matters arising before the filing of a complaint or hearing request. For EI families, such matters may include a public agency’s choices regarding insurance related decisions or fees, such as: copayments or deductibles, incurred as part of a child’s early intervention services.

(2) For the purposes of OAR 581-015-2335, “school district” means contractors and subcontractors for disputes involving any EI/ECSE matter.

Stat. Auth.: ORS 343.475, 343.531

Stats. Implemented: ORS 343.475, 343.531, 34 CFR 303.431, 303.521(e)

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; Renumbered from 581-015-1020, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 30-2012, f. 11-7-12, cert. ef. 11-9-12

581-015-2870

Due Process Hearings

OARs 581-015-2340 through 581-015-2385 apply for EI and ECSE programs with the following exceptions:

(1) “School District” means contractors and subcontractors;

(2) Parents may not seek reimbursement or attorney fees under ORS 343.175 for EI hearings;

(3) The Department must submit a copy of the hearing decision to the State Advisory Council for Special Education and the State Interagency Coordinating Council; and

(4) EI parents may use the State Due Process system established in OAR 581-015-2340 through 581-015-2385 to contest the imposition of fees, or a public agency’s decisions about a parent’s ability to pay costs, such as co-payments or deductibles, incurred as a part of a child’s early intervention services.

Stat. Auth.: ORS 343.475, 343.531

Stats. Implemented: ORS 343.475, 343.531, 34 CFR 303.521(e)

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; EB 4-1995, f. & cert. ef. 1-24-95; EB 10-1996, f. & cert. ef. 6-26-96; ODE 24-2000, f. & cert. ef. 10-16-00; Renumbered from 581-015-1030, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12; ODE 30-2012, f. 11-7-12, cert. ef. 11-9-12

581-015-2875

Discipline of Children with Disabilities for ECSE

Contractors or subcontractors must follow the rules and procedures in OAR 581-015-2400 through 581-015-2445 for discipline of children with disabilities age three through the age of eligibility for public school with the following definition exceptions:

(1) “General curriculum” means appropriate activities engaged in by typical children of the same age;

(2) “IEP” means IFSP; and

(3) “Day” means calendar days excluding weekends, holidays, and ECSE program vacation days.

(4) “School district” means contractors or subcontractors.

Stat. Auth.: ORS 343.475, 343.531

Stats. Implemented: ORS 343.475, 343.531

Hist.: ODE 24-2000, f. & cert. ef. 10-16-00; ODE 8-2001, f. & cert. ef. 1-29-01; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-1008, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2880

Private Placement — ECSE

Contractors or subcontractors must follow the rules and procedures in OAR 581-015-2450 through 581-015-2515 for ECSE children placed by their parents in private schools.

Stat. Auth.: ORS 343.475

Stats. Implemented: ORS 343.475, 343.495

Hist.: ODE 24-2000, f. & cert. ef. 10-16-00; Renumbered from 581-015-1125, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2885

Preschool Children with Disabilities Covered by Public Insurance

(1) Applicability: For purposes of OAR 581-015-2885, IDEA Part C requirements apply to children ages birth through two; IDEA Part B requirements apply to children ages three and above.

(2) For purposes of this rule the term “public benefits” means public insurance including but not limited to Medicaid.

(3) The contractor or subcontractor may use a child or family’s public benefits to provide or pay for early intervention, as permitted under the public insurance program and the requirements of this rule.

(4) The contractor or subcontractor may not require a parent to sign up for, or enroll in, public benefits to receive early intervention services under Part C.

(5) For a child under age three, the contractor or subcontractor:

(a) Must obtain, prior to using public benefits, parent consent if the child or family is not enrolled in the public benefits program or if that use would:

(A) Decrease available lifetime coverage or any other insured benefit;

(B) Result in the family paying for services that would otherwise be covered by the public benefits;

(C) Increase premiums or lead to the discontinuation of insurance; or

(D) Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.

(b) Must provide, if the parent does not consent to use of their public benefits, the early intervention services on the IFSP for which the parent has provided consent.

(c) Must provide written notification, prior to using public benefits, to the parents that includes:

(A) A statement that parental consent must be obtained before the contractor or subcontractor discloses a child's personally identifiable information to the State Medicaid Agency for billing purposes;

(B) A statement of the no-cost protection provision in subsection (5)(a)–(b) that early intervention services on the IFSP must still be made available if the parent has consented to these services;

(C) A statement that the parents have the right to withdraw their consent to disclose personally identifiable information to the public agency responsible for the administration of public benefits or insurance program (e.g., Medicaid) at any time; and

(D) A statement of the general cost categories that the parent would incur as a result of participating in a public benefits program.

(d) Must pay any costs incurred as a result of using public benefits for early intervention services, such as a deductible or copayment.

(e) May use its Part C funds to pay fees and costs (e.g., the deductible or co-pay amounts) the parents otherwise would have to pay to use public benefits.

(f) May use its Part C funds to pay for early intervention services;

(g) Must notify EI parents that they may use any of the state's dispute resolution procedures including, but not limited to, the state complaint system under OAR 581-015-2030, and mediation, due process and related resolution sessions under 581-015-2865 through 581-015-2870 to contest the imposition of an insurance-related fee or cost, such as co-payments or deductibles, to provide early intervention services for a child who may have a disability.

(6) For a child over age three, the ECSE program, contractor, or subcontractor may use the State's Medicaid or other public benefits or insurance programs in which a child participates to provide or pay for special education and related services required under IDEA and permitted under the public benefits or insurance program, as specified in subsection (2) below.

(7) With regard to services required to provide a free appropriate public education (FAPE) to a child with disabilities under IDEA, the ECSE program, contractor, or subcontractor

(a) May not require parents to sign up for or enroll in public benefits or insurance programs in order for their child with disabilities to receive FAPE under the IDEA;

(b) May not require parents to incur an out-of-pocket expense such as the payment of deductible or copay amount incurred in filing a claim for special education and related services, pursuant to IDEA, but may pay the cost that the parent otherwise would be required to pay; and

(c) May not use the child's benefits under a public insurance program if that use would:

(A) Decrease available lifetime coverage or any other insured benefit;

(B) Result in the family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the child outside of the time the child is in school;

(C) Increase premiums or lead to the discontinuation of insurance; or

(D) Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures; and

(d) Must not use a child's benefits under a public insurance program if that use would:

(A) Decrease available lifetime coverage or any other insured benefit;

(B) Result in the family paying for services that would otherwise be covered by the public benefits;

(C) Increase premiums or lead to the discontinuation of insurance; or

(D) Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.

(8) Prior to accessing a child's or parent's public benefits or insurance for the first time, and after providing notification to the child's parents consistent with (5) below, the ECSE program, contractor, or subcontractor must obtain written, parental consent that: Meets the requirements of the Family Education Rights and Privacy Act (34 CFR part 99) and the parental consent provisions in IDEA (34 CFR §300.622) requiring that consent state:

(a) the personally identifiable information that may be disclosed (e.g., records or information about the services that may be provided to a particular child);

(b) the purpose of the disclosure (e.g., billing for services under the Individuals with Disabilities Education Act (IDEA);

(c) the agency to which the disclosure may be made (e.g., the State's public benefits or insurance program (e.g., Medicaid); and

(d) Specifies that the parent understands and agrees that the public agency may access the parent's or child's public benefits or insurance to pay for services under IDEA.

(9) Prior to accessing a child's or parent's public benefits or insurance for the first time, and annually thereafter, the District or ECSE program must provide prior written notification, consistent with requirements of OAR 581-015-2310(4) and (5), to the child's parents, that includes:

(a) A statement of the parental consent provisions in paragraphs (4)(a)(A) and (B) above;

(b) A statement of the "no cost" provisions in paragraphs (2)(a) through (c) above.

(c) A statement that the parents have the right under the Family Education Rights and Privacy Act (FERPA) and IDEA, Part B, and OAR 581-015-2005 to withdraw their consent to disclosure of their child's personally identifiable information to the agency responsible for the administration of the State's public benefits or insurance program (e.g., Medicaid) at any time; and

(d) A statement that the withdrawal of consent or refusal to provide consent, pursuant to FERPA and IDEA, to disclose personally identifiable information to the agency responsible for the administration of the State's public benefits or insurance program (e.g., Medicaid) does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.

(10) Use of IDEA Part B funds.

(a) If the ECSE program, contractor, or subcontractor is unable to obtain parental consent to use the parents' public benefits or insurance when the parents would incur a cost for a specified service required to ensure a free appropriate public education, the district or ECSE program may use its Part B funds to pay for the service.

(b) To avoid financial cost to parents who would otherwise consent to use public benefits or insurance, the ECSE program, contractor, or subcontractor may use its Part B funds to pay the cost the parents otherwise would have to pay to use the public insurance (e.g., the deductible or co-pay amounts).

(c) Proceeds from public benefits or insurance will not be treated as program income for purposes of 34 CFR 80.25.

(d) If the ECSE program, contractor, or subcontractor spends reimbursements from federal funds (e.g., Medicaid) for special education and related services, those funds will not be considered "state or local" funds for purposes of the maintenance of effort provisions pursuant to IDEA. If a contractor or subcontractor spends reimbursements from federal funds (e.g., Medicaid) for early intervention, those funds will not be considered "state or local" funds for purposes of the maintenance of effort provisions.

(11) Construction. Nothing in this rule should be construed to alter the requirements imposed on a state Medicaid agency, or any other agency administering a public benefits or insurance program by federal statute, regulations or policy under title XIX, or title XXI of the Social Security Act, 42 U.S.C. 1396 through 1396v and 42 U.S.C. 1397 aa through 1397jj, or any other insurance program.

Stat. Auth.: ORS 343.475

Stats. Implemented: ORS 343.475, 343.495, 34 CFR 303.430, 303.520, 303.521 & 300.154

Hist.: ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-1051, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12; ODE 30-2012, f. 11-7-12, cert. ef. 11-9-12; ODE 11-2013(Temp), f. & cert. ef. 4-25-13 thru 10-21-13; ODE 12-2013, f. & cert. ef. 5-30-13

581-015-2890

Preschool Children with Disabilities Covered by Private Insurance

(1) With regard to services required to provide FAPE to a preschool child or EI services to a child under the age of three, a contractor or subcontractor may access a parent's private insurance proceeds only if the parent provides informed consent consistent with this rule and applicable federal requirements related to confidentiality of personally identifiable information.

(2) For a child under the age of three, when the contractor or subcontractor proposes to access the parent's private insurance to pay for the initial provision of early intervention services, it must:

(a) Obtain parent consent in accordance with this rule; and whenever personally identifiable information is released due to an increase in frequency, length, duration, or intensity in the provision of services on the child's IFSP.

(b) Inform the parents of any of the State's payment policies and identify potential costs that the parent may incur when their private insurance is used to pay for services.

(c) Not permit use of private insurance to:

(A) Count towards or result in a loss of benefits due to the annual or lifetime insurance coverage caps, to the parent, or the child's family members who are covered by the policy;

(B) Negatively affect the availability of insurance to the child, the parent, or the child's family members who are covered under the insurance policy, and insurance coverage may not be discontinued for these individuals due to the use of the insurance to pay for services; or

(C) Be the basis for increasing insurance premiums of the child, the parent, or the child's family members covered under the insurance policy.

(3) For a child under the age of three, the contractor or subcontractor:

(a) Must not require parents to pay out-of-pocket expenses (e.g., co-payments, premiums, or deductibles), even if the parent has given consent for the use of private insurance.

(b) May use its Part C funds to pay the cost the parents otherwise would have to pay to use public benefits (e.g., the deductible or co-pay amounts);

(c) May use its Part C funds to pay for early intervention services;

(d) Must notify parents that they may use any of the state's dispute resolution procedures including, but not limited to, the state complaint system under OAR 581-015-2030; mediation, due process, and related resolution sessions under 581-015-2865 through 581-015-2870, to contest the imposition of an insurance related fee or cost, such as co-payments or deductibles, to provide early intervention services.

(4) For a child above the age of three, the contractor or subcontractor must obtain consent each time it proposes to access the parents' private insurance.

(a) If a public agency is unable to obtain parental consent to use the parent's private insurance, to ensure the provision of FAPE, the public agency may use its Part B funds to pay for the service.

(b) To avoid financial cost to parents who otherwise would consent to use private insurance, if the parent would incur a cost, the public agency may use its Part B funds to pay the cost the parents otherwise would have to pay to use the parent's insurance (e.g., the deductible or co-pay amounts).

(5) For all preschool children, the contractor or subcontractor must inform the parents that their refusal to permit the public agency to access their private insurance does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.

(6) Proceeds from private insurance will not be treated as program income.

Stat. Auth.: ORS 343.475

Stats. Implemented: ORS 343.475, 343.495, 34 CFR 300.154, 303.520(b)

Hist.: ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-1052, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12; ODE 30-2012, f. 11-7-12, cert. ef. 11-9-12

581-015-2895

Health and Safety

EI and ECSE services may be provided to eligible children in a variety of settings including, but not limited to, home, hospitals, institutions, special schools, classrooms, and community child care, or preschool settings. If services are provided in any setting other than the family home, the contractor shall assure that each subcontractor meets all applicable state and local requirements including:

(1) The applicable state health, and safety regulations;

(2) Assurances that the subcontractor has policies or procedures in place regarding staff hiring that include careful checking of personal and professional references for all potential employees, with regularly scheduled evaluations to evaluate the employee's competence to work with young children;

(3) The provision of adequate space to assure the full participation of all children, regardless of ability or mobility; and

(4) The applicable personnel standards outlined in OAR 581-015-2900.

Stat. Auth.: ORS 343.475, 343.495

Stats. Implemented: ORS 343.475, 343.495

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; ODE 24-2000, f. & cert. ef. 10-16-00; Renumbered from 581-015-1090, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2900

Personnel Standards

(1) Personnel employed to provide EI or ECSE services include:

- (a) Supervisors;
- (b) EI and ECSE specialists;
- (c) Related services personnel; and
- (d) EI and ECSE assistants.

(2) Supervisors must meet the following criteria:

(a) Possess a minimum of a masters degree in early childhood, special education or a related field, and have three years experience with infants, toddlers, young children, and families.

(b) Hold a TSPC administrative endorsement or, within 12 months of employment, complete authorization as an Early Childhood Supervisor under OAR 581-015-2910; and

(c) Have a professional development plan based on the content of the EI/ECSE competencies.

(3) EI and ECSE specialists must meet the following criteria:

(a) Possess a minimum of a baccalaureate degree in early childhood, special education or a related field;

(b) Have a professional development plan based on the content of the EI/ECSE competencies; and

(c) Hold one of the following credentials:

(A) TSPC licensure or endorsement in EI/ECSE;

(B) TSPC licensure or endorsement in related field; or

(C) Within 12 months of employment, authorization as an Early Childhood Specialist under OAR 581-015-2905.

(4) Related services personnel must possess a minimum of a baccalaureate degree and a valid license necessary to practice in Oregon. Related services personnel who also provide service coordination as outlined in OAR 581-015-2840 must have:

(a) TSPC licensure in their area of discipline; or

(b) State licensure in their area of discipline; and

(c) A professional development plan based on the content of the EI/ECSE competencies.

(5) EI and ECSE assistants must be at least 18 years old, have a high school diploma or equivalent, experience working with young children. EI/ECSE assistants must have a professional development plan based on the content of the EI/ECSE competencies.

Stat. Auth.: ORS 343.055, 343.475

Stats. Implemented: ORS 343.055, 343.475

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; EB 10-1997, f. & cert. ef. 6-26-97; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-1100, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2905

Authorization of Early Childhood Specialist

(1) This rule establishes an alternative to Teacher Standards and Practices Commission (TSPC) licensure or endorsements for individuals to serve as Early Childhood Specialists for Programs. Individuals with TSPC issued endorsements in EI/ECSE or a related field are not covered by sections (4)-(12).

(2) Responsibilities of the Early Childhood Specialist may include but are not limited to:

- (a) Coordination of EI/ECSE services to children and their families;
- (b) Assessment of children in EI/ECSE programs;
- (c) Development and implementation of IFSP;
- (d) Development and implementation of data collection systems;
- (e) Provision of consultation and support, as necessary, to families and staff;
- (f) Training of EI/ECSE assistants;
- (g) Compliance with procedural safeguards; and
- (h) Provision of specialized instruction.

(3) Early Childhood Specialists must possess a minimum of a bachelor degree in early childhood education, special education or a related field.

(4) Individuals without a TSPC endorsement in EI/ECSE or a related field must successfully demonstrate competency at the specialist level in the following areas, which are described in the document, "Competencies for Professionals Working in EI/ECSE in Oregon":

- (a) Typical/Atypical Childhood Development;
- (b) Assessment;
- (c) Family;
- (d) Service Delivery;
- (e) Program Management;
- (f) Service Coordination;
- (g) Research; and
- (h) Professional Development Values/Ethics.

(5) Candidates for the Early Childhood Specialist authorization must complete an application and portfolio that documents their mastery level of each component within the competency areas listed in section (4) of this rule.

(6) The candidate must submit the application and portfolio to the Oregon Department of Education for review. Specialist employed on or after October 1, 1998, must complete the authorization within 12 months of employment. The Office of Special Education will convene a panel at least two times per year to review the candidate's portfolio. The panel will consist of a minimum of three professionals representing the Oregon Department of Education, higher education, and EI/ECSE service providers. The panel will recommend approval or non-approval of the Early Childhood Specialist authorization for the candidate to the State Superintendent of Public Instruction.

(7) The Superintendent will approve or deny the candidate's application considering the recommendation of the panel:

- (a) Each approved candidate will receive authorization from the Department as an Early Childhood Specialist;
- (b) Each nonapproved candidate will receive notice from the Department. The notice will include the reasons for denial and the right of appeal to the State Board of Education.

(8) If a candidate is unable to complete the authorization process within a 12-month period, the EI/ECSE contractor may request a waiver from the Oregon Department of Education for up to one year to allow for the candidate's completion of the authorization process.

(9) Initial authorization is valid for a period of three years. Subsequent authorization is valid for a period of five years.

(10) Applicant renewal of the Early Childhood Specialist authorization must include the following:

- (a) For initial renewal, a minimum of two years experience between issuance of initial authorization and renewal application;
- (b) For subsequent renewal, a minimum of three years experience between previous renewal and current application.

(c) Written verification by the applicant's supervisor documenting:

(A) Completion of a minimum of 75 Professional Development Units for initial reauthorization or a minimum of 125 Professional Development Units for subsequent reauthorization;

(B) Completion of a Professional Development Plan developed with the applicant's supervisor; and

(C) Development of a new Professional Development Plan developed with the applicant's supervisor.

(11) The Department will deny or revoke authorization of an Early Childhood Specialist under any of the following conditions:

(a) The individual has been convicted of any of the crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number; or

(b) The individual has made a false statement as to the conviction of a crime.

(12) The Department may deny or revoke authorization for an Early Childhood Specialist if the individual is charged with a breach of professional responsibilities, which is verified by his/her immediate supervisor.

(13) Individual whose authorization has been revoked will receive notice from the Department. The notice will include the reasons for denial and the right of appeal to the State Board of Education.

(14) All specialists employed by EI/ECSE contractors or sub-contractors must have a professional development plan based on the content of the EI/ECSE Competencies as listed in section (4) of this rule.

(15) A temporary waiver may be requested by the EI/ECSE contractor when an emergency arises due to a misassignment or unsuccessful recruitment efforts. The request for the waiver must be submitted to the Oregon Department of Education and must include:

(a) Documentation of efforts to employ personnel who meet the required competencies;

(b) The name, position, and qualifications of the employed personnel;

(c) A copy of the professional development plan as described in section (13) of this rule; and

(d) Assurances that the plan will be implemented.

Stat. Auth.: ORS 343.055, 343.475

Stats. Implemented: ORS 343.055, 343.475

Hist.: EB 15-1997, f. & cert. ef. 12-29-97; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 8-2003, f. 6-9-03, cert. ef. 6-10-03; Renumbered from 581-015-1105, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2910

Authorization of Early Childhood Supervisor

(1) This rule establishes an alternative to a Teacher Standards and Practices Commission (TSPC) administrative license for individuals to serve as Early Childhood Supervisors for Programs. Individuals with a TSPC issued administrative license and who hold a masters degree in early childhood education, special education or a related field with three years of experience working with infants, toddlers, young children and families are not covered by sections (4) through (12) of this rule.

(2) Responsibilities of the Early Childhood Supervisor may include but are not limited to:

- (a) Oversight of EI/ECSE services;
- (b) Supervision and training of personnel in EI/ECSE programs;
- (c) Serving as administrative representative at IFSP meetings;
- (d) Facilitating meetings with personnel and families; and
- (e) Facilitating interagency collaboration.

(3) Early Childhood Supervisors must possess a minimum of a master's degree in early childhood education, special education or a related field.

(4) Individuals without a TSPC administrative license must successfully demonstrate competency at the supervisor level in the following areas, which are described in the document, "Competencies for Professionals Working in EI/ECSE in Oregon":

- (a) Typical/Atypical Childhood Development;
- (b) Assessment;
- (c) Family;
- (d) Service Delivery;
- (e) Program Management;
- (f) Service Coordination;
- (g) Research;
- (h) Professional Development Values/Ethics.

(5) Candidates for the Early Childhood Supervisor authorization must complete an application and portfolio that documents their mastery level of each component within the competency areas listed in section (4) of this rule.

(6) The candidate must submit the application and portfolio to the Oregon Department of Education for review. Supervisors employed on or after October 1, 1998, must complete the authorization within 12 months of employment. The Office of Special Education will convene a panel at least two times per year to review candidate portfolios. The panel will consist of a minimum of three professionals representing the Oregon Department of Education, higher education, and EI/ECSE service providers. The panel will recommend approval or non-approval of the Early Childhood Supervisor authorization for the candidate to the State Superintendent of Public Instruction.

(7) The Superintendent will approve or deny the candidate's application considering the recommendation of the panel:

(a) Each approved candidate will receive authorization from the Department as an Early Childhood Supervisor;

(b) Each non-approved candidate will receive notice from the Department. The notice will include the reasons for denial and the right of appeal to the State Board of Education.

(8) Initial authorization is valid for a period of three years. Subsequent authorization is valid for a period of five years.

(9) Applicants renewal of the Early Childhood Supervisor authorization must include the following:

(a) For initial renewal, a minimum of two years experience between issuance of initial authorization and renewal application;

(b) For subsequent renewal, a minimum of three years experience between previous renewal and current application.

(c) Written verification by the applicant's supervisor documenting:

(A) Completion of a minimum of 75 Professional Development Units for initial reauthorization or a minimum of 125 Professional Development Units for subsequent reauthorization;

(B) Completion of a Professional Development Plan developed with the applicant's supervisor; and

(C) Development of a new Professional Development Plan developed with the applicant's supervisor.

(10) The Department will deny or revoke authorization of an Early Childhood Supervisor under any of the following conditions:

(a) The individual has been convicted of any of the crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number; or

(b) The individual has made a false statement as to the conviction of a crime.

(11) The Department may deny or revoke authorization for an Early Childhood Supervisor if the individual is charged with a breach of professional responsibilities, which is verified by his/her immediate supervisor.

(12) Individuals whose authorization has been revoked will receive notice from the Department. The notice will include the reasons for denial and the right of appeal to the State Board of Education.

(13) All supervisors employed by EI/ECSE contractors or subcontractors must have a professional plan based on the content of the EI/ECSE competencies as listed in section (4) of this rule.

(14) A temporary waiver may be requested by the EI/ECSE contractor when an emergency arises due to a misassignment or unsuccessful recruitment efforts. The request for the waiver must be submitted to the Oregon Department of Education and must include:

(a) Documentation of efforts to employ personnel who meet the required competencies;

(b) The name, position, and qualifications of the employed personnel;

(c) A copy of the professional development plan as described in section (13) of this rule; and

(d) Assurances that the plan will be implemented.

Stat. Auth.: ORS 343.055, 343.475

Stats. Implemented: ORS 343.055, 343.475

Hist.: EB 15-1997, f. & cert. ef. 12-29-97; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 8-2003, f. 6-9-03, cert. ef. 6-10-03; ODE 14-2003, f. & cert. ef. 8-14-03; Renumbered from 581-015-1106, ODE 10-2007, f. & cert. ef. 4-25-07

581-015-2930

Employment-Related Transition Services

(1) This rule establishes the policies of Executive Order No. 15-01, related to the Department of Education's involvement with integrated employment services.

(2) For purposes of this rule, the following definitions apply:

(a) "Education Goals" means the following goals:

(A) Families, students, and educators will have the expectation that individuals with intellectual and developmental disabilities will work in integrated, community-based settings;

(B) Students transitioning to adult services will be prepared to transition to integrated work experiences; and

(C) Statewide systems will be coordinated to reach the goal of integrated employment opportunities as an outcome of students' education.

(b) "Transition age student" means a student with disabilities who is eligible for transition services under the Individuals with Disabilities Education Act (IDEA) and OAR 581-015-2200.

(c) "Transition Technical Assistance" is the substance of the work of the Statewide Transition Technical Assistance Network (TTAN) and includes development of competencies for teachers, administrators, and other educational service providers that include:

(A) Developing transition-related curriculum and instructional approaches which are consistent with the Education Goals;

(B) Developing outcome-based transition planning approaches that use precepts of discovery and person-centered planning;

(C) Implementing transition-related instructional approaches for students with disabilities, such as those that are community based, and which may include, but are not limited to, authentic experiences such as internships, mentorships, youth work experiences, job skill related instruction, and job shadowing;

(D) Facilitating and managing interagency teams and resources to help ensure students and families may utilize resources from applicable state agencies, local education agencies, and other available resources; and

(E) Encouraging the implementation of transition services in schools that are consistent with the Education Goals.

(F) Assisting Local Education Agencies to meet the requirements of OAR 581-015-2245 regarding the placement of students.

(3) The Department shall establish a statewide TTAN to assist high schools in Oregon in providing transition services. The TTAN shall seek to ensure that the Education Goals are implemented in assessment, curriculum, and instruction for transition age students.

(4) This rule and its provisions are not intended to expand or replace the obligations of the State or its schools under the IDEA.

Stat. Auth.: ORS 343.041, 343.045 & 343.055

Stats. Implemented: ORS 343.041, 343.045 & 343.055

Hist.: ODE 29-2013, f. & cert. ef. 12-18-13; ODE 30-2015, f. & cert. ef. 12-22-15

DIVISION 16

OREGON SCHOOL FOR THE DEAF

581-016-0520

Definitions

The following definitions apply to OAR 581-016-0520 through 581-016-0560, unless the context indicates otherwise:

(1) Board: The State Board of Education;

(2) OSD: The Oregon School for the Deaf;

(3) Superintendent: The State Superintendent of Public Instruction.

(4) IEP: An individualized education program as defined in OAR 581-015-0005(8).

Stat. Auth.: ORS 346.010

Stats. Implemented: ORS 346.010

Hist.: IEB 264, f. & ef. 7-5-77; EB 36-1990, f. & cert. ef. 7-10-90; EB 2-1994, f. & cert. ef. 4-29-94; ODE 12-2009, f. & cert. ef. 12-10-09

581-016-0526

General Placement

(1) It is the policy of the State Board of Education (Policy 8100) that any student with a hearing impairment shall be served whenever possible in the student's home community if appropriate. It is the intent that all local agencies having interest in the student collaborate to offer services locally. A referral shall be made to OSD only when local programs are unable to provide a free appropriate public education consistent with the needs of the student as identified in the student's IEP.

(2) A student may be referred to OSD if the student:

(a) Has been determined to be eligible for special education services by the resident district under OAR 581-015-0051;

(b) Is auditorily impaired to the extent that services needed to implement the IEP as described in OAR 581-016-0536(8)(f)(A)–(D) are not available in the local district with regional program support;

(c) Is a legal resident of the State of Oregon;

(d) Regarding consent:

(A) Has the consent of a parent(s), guardian or surrogate if the student is under age 18; or

(B) Has given his or her consent, if over age 18; or

(C) Has the consent of a court-appointed guardian if one is appointed and the student is over age 18; and

(e) Has not completed the school year in which the student turns age 21.

(3) OSD may act as an evaluation and diagnostic center for a student with hearing impairments when requested to do so by the student's resident school district or the student's parents, or when additional assessment information is needed prior to a placement decision.

Stat. Auth.: ORS 346

Stats. Implemented: ORS 346.015

Hist.: IEB 24-1986, f. & ef. 7-11-86; EB 36-1990, f. & cert. ef. 7-10-90; EB 2-1994, f. & cert. ef. 4-29-94; ODE 12-2009, f. & cert. ef. 12-10-09

581-016-0536

Procedures for Referral and Placement

(1) The resident school district or the regional program shall contact the director of OSD to request a multidisciplinary team meeting to determine placement.

(2) The director or designee of OSD shall send the placement procedure packet to the district contact person and set a mutually agreed upon date, place and time for a meeting to determine placement.

(3) The district contact person shall obtain parent consent to send the following records to OSD and shall send the records for review to the director of OSD at least three working days prior to the multidisciplinary team meeting:

(a) The current audiological report (OSD);

(b) The current and previous medical, behavior, psychological, health immunization, and educational records, including previous IEPs, multidisciplinary team decisions and eligibility statements;

(c) The current statement of eligibility;

(d) The current IEP; and

(e) The signed parent consent for release of information.

(4) If the student is eligible for special education as a child with an intellectual or developmental disability, the resident school district shall contact the local mental health program case manager, who, in consultation with a Children's Services Division caseworker, shall review the IEP to determine if the student has need for residential care as part of the education program:

(a) If the student needs residential care or other support services as part of the education program, but community resources are not available as documented by the local community mental

health program case manager, the resident school district shall proceed with the placement process;

(b) In cases where the student does not need residential care as a part of the education program, but needs other educational services provided by OSD, the resident school district shall proceed with the placement process.

(5) The resident school district is responsible for conducting the multidisciplinary team meeting to determine the student's placement.

(6) Participants in the placement meeting shall include persons knowledgeable about the student, the meaning of the evaluation data and placement options. The multidisciplinary team shall consist of:

(a) The student's parent(s), guardian, or surrogate if the student is under age 18 or has a court-appointed guardian, or alternatively the student, if the student is over age 18 and does not have a court-appointed guardian;

(b) The student, when appropriate;

(c) The resident school district representative;

(d) The regional program representative who is knowledgeable about the student's disability;

(e) The director or designee from OSD who has knowledge about services that can be provided by the special school and has the authority to commit resources for services;

(f) The local mental health case manager for students eligible for intellectual or developmental disability services;

(g) Other representatives from the student's local placement; and

(h) Other persons with pertinent information about the student.

(7) The multidisciplinary placement team shall designate a member to complete the placement form.

(8) When determining placement, the multidisciplinary team shall:

(a) Base its decision on the student's current IEP;

(b) Consider documented information from a variety of sources;

(c) Address the variety of educational programs and services available to students without disabilities;

(d) Review opportunities to participate in nonacademic and extracurricular services and activities with students without disabilities;

(e) Consider any potential harmful effects on the student or on the quality of services provided to the student;

(f) Consider the following factors:

(A) The services needed to implement the IEP which may include, but are not limited to, areas such as academics; self-help, social, interpersonal, independent living; vocational training; and language development;

(B) A learning environment in which there is ample opportunity for the student to have meaningful communication with other students and teachers and exposure to cultural factors related to the student's disability;

(C) The student's need for direct instruction in an alternative communication system; and

(D) The extent of curriculum and instructional adaptations needed.

(g) Determine whether the student needs additional services and specialized educational resources available at OSD that are not available at the local placement options;

(h) Consider the impact on the student regarding the length of daily transportation for each placement option considered;

(i) Compare the instructional time available at local placement options to implement the student's IEP with the instructional time available at OSD; and

(j) Document the placement options considered and the rationale for rejection or acceptance.

(9) Within 14 calendar days of the multidisciplinary team meeting, the resident school district shall submit the following documents to the Assistant Superintendent for the Office of Student Learning and Partnerships, Oregon Department of Education:

(a) The eligibility statement;

- (b) The placement meeting notes;
- (c) The parental consent for release of information;
- (d) A letter of placement recommendation from the regional

program and the resident school district; and

(e) A written statement from the local community mental health program case manager regarding the availability of local residential services, when appropriate.

(10) The Assistant Superintendent for the Oregon Department of Education's Office of Student Learning and Partnerships shall send written notification of the multidisciplinary team's placement decision to the parent(s), guardian or surrogate, the resident school district, the regional program, and OSD. Placement shall begin after written notification is received by the parent(s) and the resident school district.

(11) Prior to the student's enrollment at OSD, the school shall review the student's file to insure that the documents identified in section (3) of this rule have been received.

Stat. Auth.: ORS 346

Stats. Implemented: ORS 346.015

Hist.: 1EB 24-1986, f. & ef. 7-11-86; EB 36-1990, f. & cert. ef. 7-10-90; EB 2-1994, f. & cert. ef. 4-29-94; ODE 12-2009, f. & cert. ef. 12-10-09; ODE 12-2011, f. & cert. ef. 10-31-11

581-016-0537

General Obligations

OSD is subject to the rules contained in division 15 of this chapter including, but not limited to, the requirements for identifying and determining eligibility of students with handicapping conditions, development of IEPs, placement of students and the provision of a free, appropriate education.

Stat. Auth.: ORS 346

Stats. Implemented: ORS 346.010

Hist.: EB 37-1990, f. & cert. ef. 7-10-90; ODE 12-2009, f. & cert. ef. 12-10-09

581-016-0538

Resident School District Responsibility

(1) When a student is placed at OSD the student's resident school district remains responsible for assuring that the student receives a free appropriate education in accordance with ORS 343.221, OAR 581-015-0005(20) and 581-015-0061.

(2) A representative of the child's resident school district shall attend the student's IEP meetings while the student is placed at OSD.

(3) In those cases where OSD cannot within the resources allocated provide all of the services required in the child's IEP, the resident district may elect to provide these services if in so doing OSD would become an appropriate placement.

(4) At the time of placement, OSD and the resident district shall determine by written agreement those services for which the resident district shall remain responsible.

Stat. Auth.: ORS 346

Stats. Implemented: ORS 346.015

Hist.: EB 35-1990, f. & cert. ef. 7-10-90; ODE 12-2009, f. & cert. ef. 12-10-09

581-016-0541

Termination of Placement and Revocation of Consent

(1) The student's placement at OSD shall be determined annually by the student's multidisciplinary team and shall be terminated when:

(a) The student has completed the school year in which the student turns age 21;

(b) The student graduates from the program;

(c) A multidisciplinary team, which includes those individuals set forth in OAR 581-016-0536(6), determines that:

(A) An appropriate program can be provided at the local or regional level;

(B) OSD is no longer the appropriate placement for the student; or

(d) It is required as the result of a due process hearings officer or court's decision.

(2) If a parent, guardian or surrogate, student over the age of 18 without a court-appointed guardian, or educational staff question the appropriateness of the student's placement at OSD, the resident school district shall convene a multidisciplinary team with all of the individuals set forth in OAR 581-016-0536(6). The multidisciplinary team shall determine the appropriate placement for the student. This meeting shall occur prior to any change in placement for the student.

Stat. Auth.: ORS 346

Stats. Implemented: ORS 346.015

Hist.: 1EB 24-1986, f. & ef. 7-11-86; EB 30-1988, f. & cert. ef. 7-5-88; EB 36-1990, f. & cert. ef. 7-10-90; EB 2-1994, f. & cert. ef. 4-29-94; ODE 12-2009, f. & cert. ef. 12-10-09

581-016-0560

Placement Appeal Procedures — OSD

A parent, guardian or surrogate may challenge the child's placement, denial of placement, or transfer in the manner provided in ORS 343.165 to 343.177.

Stat. Auth.: ORS 346

Stats. Implemented: ORS 346.015

Hist.: 1EB 264, f. & ef. 7-5-77; 1EB 19-1979, f. & ef. 11-15-79; 1EB 17-1982, f. & ef. 8-13-82; EB 36-1990, f. & cert. ef. 7-10-90; ODE 12-2009, f. & cert. ef. 12-10-09

581-016-0700

Goals for Education

To the extent appropriate, each student at the Oregon School for the Deaf shall have the opportunity to function as effectively as possible in six life roles as set forth in OAR 581-022-0201.

Stat. Auth.: ORS 343 & 346

Stats. Implemented: ORS 346.010

Hist.: EB 31-1989, f. & cert. ef. 11-2-89

581-016-0710

High School Requirements for Graduation

In order for a student to graduate from the Oregon School for the Deaf (OSD), he/she must attain a certain number of units,

master essential learning skills, meet competencies, and maintain/attain attendance minimums. Three different diplomas/certificates are available, depending on the goals and abilities of each student. A modified diploma or certificate of Individual Educational Program (IEP) completion may be awarded according to OAR 581-022-0415.

- (1) To receive a diploma the student must:
 - (a) Complete 22 units as specified OAR 581-022-0316;
 - (b) Meet all OSD-required competencies in language, reading, and mathematics; and
 - (c) Maintain required attendance.
- (2) To receive a modified diploma the student must:
 - (a) Complete 22 units of modified course work as agreed upon in the IEP;
 - (b) Have satisfactory progress in school; and
 - (c) Maintain required attendance.
- (3) To receive a certificate of IEP completion the student must complete the IEP goals. The certificate may be issued even if the student has not completed 22 units and has not maintained the required days of attendance.

Stat. Auth.: ORS 343 & 346

Stats. Implemented: ORS 346.010

Hist.: EB 31-1989, f. & cert. ef. 11-2-89

581-016-0720

Essential Learning Skills

The Oregon School for the Deaf shall offer a planned program of instruction which ensures the opportunity for students to obtain the essential learning skills identified in the common curriculum goals as set forth by the State Board of Education and in accordance with each learner's intellectual and physical abilities. The school shall:

- (1) Establish an individualized instruction/activity program for each child;
- (2) Provide for the inclusion of all appropriate learning goals;
- (3) Increase the application of all appropriate essential learning skills as students acquire mastery; and
- (4) Provide appropriate curricula, instruction, and activities in order for students to make necessary progress toward attainment of the essential learning skills.

Stat. Auth.: ORS 343 & 346

Stats. Implemented: ORS 346.010

Hist.: EB 31-1989, f. & cert. ef. 11-2-89

581-016-0730

Career and Vocational Education

The Oregon School for the Deaf shall provide a continuum of career and technical instructional program to include career awareness, career exploration, career guidance, job sampling, and work experience.

Stat. Auth.: ORS 343 & 346

Stats. Implemented: ORS 346.010

Hist.: EB 31-1989, f. & cert. ef. 11-2-89

581-016-0740

Special Provisions

The Oregon School for the Deaf shall provide instruction which is uniquely designed for the hearing impaired and for accompanying handicaps such as vision impairment, autism, intellectual disability, orthopedic impairment, learning disability, emotional disturbance, and other health impairments; and for special abilities (i.e., talented and gifted).

Stat. Auth.: ORS 343 & 346

Stats. Implemented: ORS 346.010

Hist.: EB 31-1989, f. & cert. ef. 11-2-89; ODE 12-2011, f. & cert. ef. 10-31-11

581-016-0750

Curriculum

(1) The Oregon School for the Deaf (OSD) instructional program shall instruct all students in grades K/1–8 in the areas of art, health education, language arts (including reading and writing), mathematics, physical education, science, and social studies (including geography and history). The program shall:

- (a) Provide students with the knowledge and skills necessary for successful progress in high schools;
- (b) Provide opportunities for high school students to meet requirements for graduation; and
- (c) Offer electives at the high school level in vocational education, art, and a foreign language.

(2) In addition to the academic program, OSC shall provide instruction in these areas:

- (a) Compensatory skills such as:
 - (A) Typing/Keyboarding;
 - (B) Signing and fingerspelling;
 - (C) Leadership;
 - (D) Handwriting; and
 - (E) Use of auditory, visual, and physical aids.
- (b) Self-help and skills of daily living;
- (c) Arts, crafts, and hobbies;
- (d) Orientation and mobility (for deaf/blind);
- (e) Adaptive physical education;
- (f) Career, prevocational, and technical skills;
- (g) Language/Communication development;
- (h) Related services:
 - (A) Speech pathology and audiology;
 - (B) Psychological services;
 - (C) Physical therapy;
 - (D) Occupational therapy; and
 - (E) Medical diagnostic services and health care.

Stat. Auth.: ORS 343 & 346

Stats. Implemented: ORS 346.010

Hist.: EB 31-1989, f. & cert. ef. 11-2-89

581-016-0760

Required Days of Instruction

The Oregon School for the Deaf shall provide a program of instructional hours or days equivalent to the requirements for public schools as set forth in OAR chapter 22.

Stat. Auth.: ORS 343 & 346

Stats. Implemented: ORS 346.010

Hist.: EB 31-1989, f. & cert. ef. 11-2-89

581-016-0770

Equal Educational Opportunities

The Oregon School for the Deaf shall assure equality of opportunity for all students as provided in OAR 581-021-0045 and 581-021-0046, and ORS 359.150.

Stat. Auth.: ORS 343 & 346

Stats. Implemented: ORS 346.010

Hist.: EB 31-1989, f. & cert. ef. 11-2-89

581-016-0780

Personnel

(1) Teachers, specialists, and administrators must hold valid Oregon certificates and be assigned in accordance with the individual certificate, school policies, program goals, and applicable statutes and administrative rules.

(2) Related service providers shall meet state licensure requirements in their fields of specialty.

(3) The Oregon School for the Deaf shall hire staff in compliance with state personnel rules and Department policy.

(4) All staff will be required to meet sign language requirements established in the communication policy.

Stat. Auth.: ORS 343 & 346

Stats. Implemented: ORS 346.010

Hist.: EB 31-1989, f. & cert. ef. 11-2-89

581-016-0790

Daily Class Size

(1) The Oregon School for the Deaf shall maintain class sizes and teacher assignments which promote effective learning consistent with the outcomes expected of each Individualized Educational Program (IEP).

(2) In determining class size, the following shall be considered:

- (a) The teacher-student ratio of each class;
- (b) The total number of students assigned per teacher;

- (c) The severity of students' needs;
- (d) The support staff available to each teacher;
- (e) The nature of the instructional program in relation to the teacher's professional preparation; and
- (f) The appropriateness of instructional facilities and equipment.

Stat. Auth.: ORS 343 & 346
Stats. Implemented: ORS 346.010
Hist.: EB 31-1989, f. & cert. ef. 11-2-89

581-016-0800**Educational Materials**

The Oregon School for the Deaf shall provide textbooks and other instructional materials and equipment which contribute to the attainment of general and Individualized Educational Program (IEP) goals and which are appropriate to each child's capabilities.

Stat. Auth.: ORS 343 & 346
Stats. Implemented: ORS 346.010
Hist.: EB 31-1989, f. & cert. ef. 11-2-89

581-016-0810**Individual Student**

To ensure each student's educational progress, the Oregon School for the Deaf shall:

- (1) Record and maintain records of assessment results, classroom, work, behavior, and other evaluative information for identifying each student's progress and needs related to:
 - (a) Attainment of general learner goals;
 - (b) Attainment of Individualized Educational Program (IEP) goals; and
 - (c) General educational progress in personal, social, and vocational areas.
- (2) Adapt instruction and curriculum when the needs, interests, and learning styles of each student indicate an adaptation is needed; and
- (3) Report educational progress to parents and students at least annually on:
 - (a) Attainment of general learner goals;
 - (b) Attainment of IEP goals; and
 - (c) General progress in personal, social, vocational, and living skills development, when appropriate.

Stat. Auth.: ORS 343 & 346
Stats. Implemented: ORS 346.010
Hist.: EB 31-1989, f. & cert. ef. 11-2-89

581-016-0820**Instructional Program**

To ensure continual improvement of instructional programs, the Oregon School for the Deaf shall review assessment data and other evaluative information to identify levels of performance, to recognize deficiencies and to plan needed improvement. The school shall:

- (1) Identify program needs by:
 - (a) Periodically reviewing assessment results and other evaluative information; and
 - (b) Conducting program evaluation periodically in all curriculum areas stated in OAR 581-016-0603.
- (2) Implement program improvements as identified;
- (3) Provide appropriate staff-related development activities;
- (4) Report results of information stated above to the Department of Education; and
- (5) Provide a media program to enhance each student's instructional program that:
 - (a) Is coordinated to support the general goals of the school and Individualized Educational Programs;
 - (b) Has appropriate facilities, materials, and equipment which support program goals; and
 - (c) Is developed, implemented, coordinated, and maintained by personnel provided for that purpose.

Stat. Auth.: ORS 343 & 346
Stats. Implemented: ORS 346.010
Hist.: EB 31-1989, f. & cert. ef. 11-2-89

581-016-0830**Related and Support Services**

The Oregon School for the Deaf shall provide those related services which may be specified in a student's Individualized Educational Program (IEP) in order for him/her to have access to educational program; i.e., such services as:

- (1) Speech pathology and audiology;
- (2) Psychological services;
- (3) Physical therapy;
- (4) Occupational therapy;
- (5) Medical diagnostic services and specific health care; and
- (6) Counseling and guidance.

Stat. Auth.: ORS 343 & 346
Stats. Implemented: ORS 346.010
Hist.: EB 31-1989, f. & cert. ef. 11-2-89

581-016-0840**Emergency Plans and Safety Programs**

The Oregon School for the Deaf shall maintain a comprehensive safety program for all employees and students as set forth in OAR 581-022-0706 and 581-022-0707.

Stat. Auth.: ORS 343 & 346
Stats. Implemented: ORS 346.010
Hist.: EB 31-1989, f. & cert. ef. 11-2-89

581-016-0850**Operating Policies and Procedures**

The Oregon School for the Deaf shall:

- (1) Keep copies of operating policies, procedures, and rules adopted pursuant to ORS 332.107, and shall make such information available upon request;
- (2) Use a process of management planning in the areas of staffing, instruction, and facility maintenance and construction;
- (3) Maintain and make available upon request evidence of compliance with these standards; and
- (4) Review and evaluate current policies and practices periodically in order to gain/maintain school accreditation.

Stat. Auth.: ORS 343 & 346
Stats. Implemented: ORS 346.010
Hist.: EB 31-1989, f. & cert. ef. 11-2-89

581-016-0860**Records and Reports**

A student record policy will be maintained by the Oregon School for the Deaf consistent with that set forth in OAR 581-022-0717.

Stat. Auth.: ORS 343 & 346
Stats. Implemented: ORS 346.010
Hist.: EB 31-1989, f. & cert. ef. 11-2-89

581-016-0870**Support Services**

(1) Pupil transportation services: The Oregon School for the Deaf shall cooperate with local school districts in accordance with local school district responsibilities under ORS 343.283. Transportation shall be provided in accordance with ORS 346.042 and 346.045.

(2) Food Services: The Oregon School for the Deaf shall provide meals which are nutritious and take into account particular preparation and content which are consistent with the needs of students enrolled.

(3) Maintenance and custodial services: The Oregon School for the Deaf shall maintain buildings and grounds to provide conditions conducive to the health and safety of students, employees, and the general public.

(4) Facilities: The Oregon School for the deaf shall provide physical facilities which are appropriate to the instructional/activity program and which provide barrier-free access to all students and employees.

(5) Equipment and materials: The Oregon School for the Deaf shall provide furniture, equipment, and materials which support the general and child-specific goals of the school.

(6) Residential services: The Oregon School for the Deaf shall:

(a) Provide care, training, and assessments in the areas of living skills, play and recreational skills, social skills, and behavior management for all residential students, in a safe, clean living and learning environment;

(b) Instruct students in the planned Individualized Educational Program (IEP) assigned by the multidisciplinary team;

(c) Provide all students with social and recreational opportunities to meet the least restrictive environment guidelines as stated in PL 94-142;

(d) Maintain a consistent 24-hour (school week) program for all residential students, that supports and is coordinated with the in-class educational program;

(e) Provide parents with written student development progress reports periodically.

(7) Parent liaison services: The Oregon School for the Deaf shall provide for the liaison between the school and parents and other related agencies to assure:

(a) Appropriate communication;

(b) Advocacy for the students; and

(c) Involvement of the family in the educational process.

Stat. Auth.: ORS 343 & 346

Stats. Implemented: ORS 346.010

Hist.: EB 31-1989, f. & cert. ef. 11-2-89

581-016-0880

Statewide Educational Resource

The Oregon School for the Deaf may extend its services to other hearing impaired children and the general public by:

(1) Conducting student assessments at the request of the local school district or regional program;

(2) Providing summer enrichment experiences;

(3) Providing consultative services to families and local school district and regional personnel; and

(4) Providing information to the general public regarding the education of the hearing impaired.

Stat. Auth.: ORS 343 & 346

Stats. Implemented: ORS 346.010

Hist.: EB 31-1989, f. & cert. ef. 11-2-89

DIVISION 17

STRATEGIC INVESTMENTS

581-017-0005

Definitions

The following definitions apply to Oregon Administrative Rules in division 17, chapter 581 that implement strategic investments as part of the Oregon Early Reading Program, Guidance and Support for Post-Secondary Aspirations Program and Connecting to the World of Work Program:

(1) “40-40-20 goal” means the mission of Oregon’s education system as described in ORS 351.009.

(2) “Achievement gap” means the research-based gap in achievement that often exists between students who are economically disadvantaged, students learning English as a second language, African American, Hispanic or Native American and their peers.

(3) “Network” means the Network of Quality Teaching and Learning established by chapter 661, Oregon Law 2013 (Enrolled House Bill 3233).

(4) “Students who are economically disadvantaged” means students who are eligible for free or reduced price school meals.

Stat. Auth.: 2013 OL Ch. 660, Sec. 1 (Enrolled HB 3232)

Stats. Implemented: 2013 OL Ch. 660, Sec. 1 (Enrolled HB 3232)

Hist.: ODE 15-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 28-2013, f. & cert. ef. 12-18-13

581-017-0010

Equity Lens

(1) The Department of Education will apply the Equity Lens adopted by the Chief Education Office when administering the strategic investments including when determining resource allocation and making strategic investments.

(2) Specifically the Department shall consider the following:

(a) Who are the racial or ethnic and underserved groups affected? What is the potential impact of the resource allocation and strategic investment to these groups?

(b) Does the decision being made ignore or worsen existing disparities or produce other unintended consequences? What is the impact on eliminating the opportunity gap?

(c) How does the resource allocation or strategic investment advance the 40-40-20 goal?

(d) What are the barriers to more equitable outcomes? (e.g., mandated, political, emotional, financial, programmatic or managerial)

(e) How has the Department intentionally involved stakeholders who are also members of the communities affected by the resource allocation or strategic investment? How does the Department validate its assessment in paragraphs (a), (b) and (c) of this subsection?

(f) How will the Department modify or enhance the strategic investment to ensure each learner and communities’ individual and cultural needs are met?

(g) How is the Department collecting data on race, ethnicity, and native language relating to the strategic investments?

(h) What is the Department’s commitment to P-20 professional learning for equity? What resources is the Department allocating for training in cultural responsive instruction.

Stat. Auth.: 2013 OL Ch. 660, Sec. 1 (Enrolled HB 3232)

Stats. Implemented: 2013 OL Ch. 660, Sec. 1 (Enrolled HB 3232)

Hist.: ODE 15-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 28-2013, f. & cert. ef. 12-18-13; ODE 34-2016, f. & cert. ef. 5-17-16

581-017-0020

Timelines and Performance Measures

Recipients of strategic investment grant funds shall meet timelines, performance measures and other requirements related to the accumulation and evaluation of data collected as required by the Chief Education Office and the Oregon Department of Education.

Stat. Auth.: 2013 OL Ch. 660, Sec. 1 (Enrolled HB 3232)

Stats. Implemented: 2013 OL Ch. 660, Sec. 1 (Enrolled HB 3232)

Hist.: ODE 15-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 28-2013, f. & cert. ef. 12-18-13; ODE 34-2016, f. & cert. ef. 5-17-16

581-017-0100

Definitions

The following definitions apply to 581-017-0100 to 581-017-0115:

(1) “CAP (Comprehensive Achievement Plan)” means the plan for program improvement that all Focus and Priority Schools are required to develop and implement. It describes the school’s goals, tasks necessary to achieve those goals, and who is responsible for completion of each activity with anticipated due dates. The CAP is the vehicle for communication between the school and the Oregon Department of Education outlining the actions a school takes to implement interventions prescribed by the School Appraisal Team. The CAP, developed collaboratively by the district, school, and a team of educators and community members, commits the school to evidence-based interventions and fixed improvement goals.

(2) “Focus Schools” are those ranked in the fifth to the fifteenth percentile in overall rating and are:

(a) Within-School Gap: Title I schools with the largest within school achievement or graduation gaps, or

(b) With Low Achieving Subgroup: Title I schools with a subgroup or subgroups with low achievement in reading and mathematics, combined, or a subgroup with low graduation, or

(c) With Low Graduation Rate: Title I high schools with graduation rates under 60 percent that were not already identified as Priority Schools.

(3) “Focus and Priority Schools” means schools that were identified using the Department of Education’s overall rating system that analyzed 2011-2012 student achievement data and graduation rates.

(4) “Priority Schools” are those schools satisfying at least one of the following:

(a) School Improvement Grant (SIG): A Tier I or Tier II school receiving funding under the SIG program.

(b) Low Graduation Rate: A Title I-participating high school with a graduation rate of less than 60 percent.

(c) Low Achievement: Among the lowest five percent of Title I schools in the state based on the percent of students meeting state benchmarks in reading and mathematics combined for 2010-11 and 2011-12 that is not a high-progress school.

(5) "SIG Schools" means the schools that have received the 3-year School Improvement Program Grant and whom begun their work during the 2010-2011 (Cohort 1) or 2011-2012 (Cohort 2) school years.

Stat. Auth.: 2013 OL Ch. 660, Sec. 1 (Enrolled HB 3232)

Stats. Implemented: 2013 OL Ch. 660, Sec. 1 (Enrolled HB 3232)

Hist.: ODE 19-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 31-2013, f. & cert. ef. 12-18-13

581-017-0105

Establishment

(1) The Expanded Reading Opportunities Grant is established as part of the Early Reading Program Strategic Investment.

(2) The purposes of the program are to:

(a) Extend and expand reading opportunities in public schools; and

(b) Improve the reading proficiency of students by the time the students complete the third grade.

Stat. Auth.: 2013 OL Ch. 660, Sec. 1 (Enrolled HB 3232)

Stats. Implemented: 2013 OL Ch. 660, Sec. 1 (Enrolled HB 3232)

Hist.: ODE 19-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 31-2013, f. & cert. ef. 12-18-13

581-017-0110

Eligibility

The Department of Education shall allocate funds for the Expanded Reading Opportunities Grant to schools based on the following eligibility criteria:

(1) Schools must be a designated Focus or Priority School.

(2) Schools must serve students in at least one grade from kindergarten through grade 3.

(3) Schools must not have received a SIG grant.

(4) Schools must use the funds in alignment with their CAP.

(5) Schools must use the funds to extend or expand reading opportunities by:

(a) Providing adult support;

(b) Offering programs during non-school hours; or

(c) Increasing access to technology.

Stat. Auth.: 2013 OL Ch. 660, Sec. 1 (Enrolled HB 3232)

Stats. Implemented: 2013 OL Ch. 660, Sec. 1 (Enrolled HB 3232)

Hist.: ODE 19-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 31-2013, f. & cert. ef. 12-18-13

581-017-0115

Implementation Grant Funding

(1) The Department of Education may award at least \$40,000 for the 2013-2014 school year to each eligible Focus and Priority School that applies and meets the criteria.

(2) For the 2014-2015 school year each eligible Focus and Priority School that applied may be awarded an equal amount based on the amount available.

(3) The Department may not award more than \$4 million dollars in total per biennium for Expanded Reading Opportunities Grants.

(4) School that receive funds under the grant program may not use those funds for administrative costs.

Stat. Auth.: 2013 OL Ch. 660, Sec. 1 (Enrolled HB 3232)

Stats. Implemented: 2013 OL Ch. 660, Sec. 1 (Enrolled HB 3232)

Hist.: ODE 19-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 31-2013, f. & cert. ef. 12-18-13

581-017-0200

Definitions

The following definitions apply to OAR 581-017-0200 to 581-017-0220:

(1) "Accelerated" means an underserved student who has achieved a "C" or higher will gain access to IB, AP or college credit courses. This can include but is not limited to transportation, consortium creation and teacher training.

(2) "At-risk" means a student who is less likely to succeed academically or more likely to drop out of school due to circumstances beyond their control.

(3) "Cultural Competence" means an individual or organization has proven their ability to understand the emotional, mental and physical challenges of non-majority individuals in a way that promotes a self-awareness and confidence that is reflected in the students' academic achievement.

(4) "Non-profit organization" means:

(a) An organization established as a nonprofit organization under the laws of Oregon; and

(b) Qualifies as an exempt organization under section 501(c)(3) of the Internal Revenue Code as defined in ORS 314.011.

(5) "Wraparound" intervention strategy means an organization can demonstrate the ability to execute a highly structured and integrated effort to meet student needs in their home, school and community that is reflected in the students' academic achievement.

(6) "Underserved" means a student who is not making satisfactory progress toward a high school diploma, modified diploma or an extended diploma and has not considered enrolling in post-secondary education.

Stat. Auth.: ORS 327.800

Stat. Implemented: ORS 327.815

Hist.: ODE 23-2013(Temp), f. & cert. ef. 10-18-13 thru 4-16-14; ODE 1-2014, f. & cert. ef. 2-19-14

581-017-0205

Establishment

(1) The Mentoring, Monitoring, Acceleration Grant is established as part of the Guidance and Support for Post-Secondary Aspirations Strategic Investment.

(2) The purposes of the grant is to:

(a) Extend or expand a students' ability to achieve a "C" or higher within the current academic year in all core subjects;

(b) Increase the academic achievement for underserved and at-risk students in addition to the cultural competence within academic communities; and

(c) Create, expand or replicate programs that achieve the purposes of the grant.

Stat. Auth.: ORS 327.800

Stat. Implemented: ORS 327.815

Hist.: ODE 23-2013(Temp), f. & cert. ef. 10-18-13 thru 4-16-14; ODE 1-2014, f. & cert. ef. 2-19-14

581-017-0210

Eligibility

The Department of Education shall allocate funds for the Mentoring, Monitoring, Accelerated grant program based on the following eligibility criteria:

(1) The following entities shall be eligible to receive the Mentoring, Monitoring, Accelerated program award:

(a) Non-profit organizations;

(b) School districts; and

(c) Consortia of non-profits or school districts and other entities. Each eligible consortium must have at least one non-profit organization or school district to be eligible for the grant which will serve as the fiscal agent.

(2) Eligible non-profit organizations and school districts must have a comprehensive system for monitoring progress and providing individualized planning, mentoring, tutoring or other support services to students or must have as part their proposal a plan to have a comprehensive system.

(3) Eligible non-profit organizations and school districts must provide data documenting and must ensure that the resources received will be used for underserved, at-risk or accelerating students in eighth or ninth grade.

Stat. Auth.: ORS 327.800

Stat. Implemented: ORS 327.815

Hist.: ODE 23-2013(Temp), f. & cert. ef. 10-18-13 thru 4-16-14; ODE 1-2014, f. & cert. ef. 2-19-14

581-017-0215

Implementation of Grant Funding

(1) The Department of Education will make awards between \$50,000 and \$250,000 for use during the 2013–2014 or 2014–2015 school year for each eligible Mentoring, Monitoring, Accelerated grant program. The Department may not award more than \$3 million in total per biennium for the grants.

(2) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted for the Mentoring, Monitoring, Acceleration program funds. All proposals will comply with the requirements of ORS 327.800 and 327.815 and rules adopted to implement those sections.

(3) Awards will be based on the following criteria:

(a) Whether the proposal identifies how the funds will be used to reach the 40-40-20 goal and improve education outcomes for underserved and at risk and accelerating students as identified by the Chief Education Office Equity Lens document.

(b) Whether the applicant proposal demonstrates support, commitment and readiness to design or revise culturally competent programming specifically for underserved/at-risk eighth and ninth grade students.

(4) The Department shall give priority to proposals that meet the minimum criteria and:

(a) Provide a sustainability plan to continue the program for at least two years after the program funding has ended.

(b) The extent to which the applicant clearly documents its capacity to implement and carry out programming and services for students achieving a “C” or higher in core academic subjects within the current academic year.

(5) The Department of Education shall allocate funds for the grant program based on the evaluation of the grant application and the following considerations:

(a) Organizations that have documented evidence of serving underserved/at-risk eighth and ninth grade students or drop outs.

(b) Organizations designed to return or advance eighth or ninth grade students to a “C” or higher grade in core academic subjects within the same academic year using a systematic program design.

(c) Geographic location of the program organization to ensure geographic representation of the targeted student groups are included throughout the state.

(d) Organizations currently serving eighth and ninth grade underserved or at risk students that could improve academic levels to “C” or higher in core academic subjects with additional resources.

(e) Organizations that have a high number of students who are at or below a “C” in core academic subjects.

(f) Give preference to organizations that have demonstrated success by improving student academic outcomes.

(6) Each award may be up to \$250,000 which shall be given during the following phases based on a detailed budget narrative and budget template:

(a) Planning phase;

(b) Implementation phase; and

(c) Evaluation phase.

(7) Grant recipients shall use funds received for the planning, implementation, and evaluation phases of the grant for activities outlined in the request for proposal.

(8) Grant recipients must be able to expend the funds for allowable purposes specified in the request for proposal within the grant timeline according to acceptable accounting procedures.

Stat. Auth.: ORS 327.800

Stat. Implemented: ORS 327.815

Hist.: ODE 23-2013(Temp), f. & cert. ef. 10-18-13 thru 4-16-14; ODE 1-2014, f. & cert. ef. 2-19-14; ODE 34-2016, f. & cert. ef. 5-17-16

581-017-0220

Timelines and Performance Measures

The Oregon Department of Education shall provide award recipients a template for an interim and final grant report. Recipients are required to submit the interim and final report prior to receiving their final request for funds.

Stat. Auth.: ORS 327.800

Stat. Implemented: ORS 327.815

Hist.: ODE 23-2013(Temp), f. & cert. ef. 10-18-13 thru 4-16-14; ODE 1-2014, f. & cert. ef. 2-19-14

581-017-0287

Definitions

The following definitions apply to OAR 581-017-0287 to 581-017-0297:

(1) “Annual Pathway Allocation Maximum” means the maximum amount that can be allocated to one district in a given fiscal year as determined by the Department of Education.

(2) “Career Pathway Funding” means the funding allocation established by section 1, chapter 763, Oregon Laws 2015 (Enrolled HB 3072).

(3) “High Demand” means having more than the median number of total (growth plus replacement) openings for statewide or a particular region.

(4) “High Wage” means a wage that is more than the all-industry, all-ownership median wage for statewide or a particular region.

(5) “Historically Underserved student” means an English language learner, a student of color, an economically disadvantaged student or a student with disabilities.

(6) “Industry Credential” means certification that can lead to a high wage and high demand job and has been approved by the Department of Education.

(7) “Pathway to a high wage and high demand job” means a program of study offered in the current school year that provides students with the training necessary for the student to obtain a high wage high and demand job upon graduation, or enroll in post-high school training or education that will lead to a high wage and high demand job.

(8) “Program of Study” means a sequence of courses, aligned to industry standards at the secondary and post-secondary level, that integrates technical and career skill proficiencies with academic content and has been approved by the Oregon Department of Education.

(9) “Qualifying student” means:

(a) A student who earned at least three high school credits in a career and technical education program of study that is a pathway to high wage and high demand jobs;

(b) A student who acquired an industry credential while enrolled in high school in a career and technical education program of study; and

(c) A student who meets the qualifications set forth in subsection (8)(a) or (b) and is historically underserved.

Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Stat. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Hist.: ODE 25-2015, f. & cert. ef. 12-18-15

581-017-0291

Purpose

The purpose of the Career Pathway Grant is to fund activities related to career and technical education programs of study that are pathways to high wage high demand jobs.

Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Stat. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Hist.: ODE 25-2015, f. & cert. ef. 12-18-15

581-017-0294

Funding

(1) The Department of Education shall determine for each fiscal year the portion of the funds available for the Career Pathway Funding allocation and the annual pathway allocation maximum.

(2) Prior to the allocation in each fiscal year, the Department of Education shall:

(a) Determine which programs of study are pathways to a high wage and high demand job;

(b) Identify qualifying students enrolled in the prior school year at each district; and

(c) Report the data to the CTE Regional Coordinators for verification of accuracy.

(d) For each qualifying student enrolled in a district in the prior school year, the district will earn one point for purposes of the allocation formula in section (4) of this rule. If one qualifying student meets the qualifications of more than one section in 581-017-0287(8), the district will earn more than one point, up to three points total.

(e) The Department shall determine the amount of the allocation to each school district based on the following formula:

Allocation Amount = number of points earned by a school district in the prior school year x (the total amount available for distribution for Career Pathway Funding in a fiscal year / the total number of points in the State in the prior school year), not to exceed the annual pathway allocation maximum.

(f) Funds received by a school district under this section must be separately accounted for and must be distributed to the career and technical education program of study that served the qualifying students for which the funds were received. If a program of study is no longer in existence, the school district may not receive Career Pathway Funds for the qualifying students served by the defunct program.

Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Stat. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Hist.: ODE 25-2015, f. & cert. ef. 12-18-15

581-017-0297

Reporting

School districts are responsible for the following reporting to the Oregon Department of Education. Prior to the allocation in each fiscal year, a school district must provide the following written assurances to the Department of Education:

(1) The money received through the career pathway funding allocation will not supplant current funding provided by the district for career and technical education; and

(2) The career technical education teacher, regional coordinator, and school administration will be involved in any decision making regarding how to use the career pathway allocation funds.

(3) Funds received will only be spent on the career and technical education program of study that served the qualifying students for which the funds were received. Prior to the end of each school year, a school district that has received an allocation of the career pathway funding must file with the Department:

(a) An expenditure report; and

(b) Verification that the career pathway funding allocation did not supplant funding provided by the district for career and technical education.

Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Stat. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Hist.: ODE 25-2015, f. & cert. ef. 12-18-15

581-017-0301

Definitions

The following definitions apply to 581-017-0300 TO 581-017-0333:

(1) “Achievement Gap” means the gap in achievement (state test scores in science and mathematics as well as postsecondary degree attainment in STEM) that often exists between students who are economically disadvantaged, students learning English as a second language, African American, Hispanic or Native American compared to their peers.

(2) “Authentic Problem-Based Learning” means using real world questions, problems, and tasks—often drawn from local community issues and industries—as the focus to drive the learning experiences, deepen understanding, and developing rich contextual connections across a variety of STEM and non-STEM disciplines.

(3) “Career and Technical Education (CTE)” is a comprehensive educational program for students based on industry needs. CTE includes coursework in areas such as health care, engineering, and computer science.

(4) “Community Engagement” means a broad collaboration and participation between multiple sectors of the community for the mutually beneficial exchange of knowledge and resources to

identify local needs and contribute to larger conversations on visioning planning which may include, but not limited to parent groups and advocacy groups, industry and STEM agencies, economic and workforce groups, student input, and educators.

(5) “Education service district” or “ESD” means an education service district as defined in ORS 334.003.

(6) “Effective STEM Instruction” means the use of evidence-based practices that support interconnected, relevant STEM instruction as stated in definition number one.

(7) “Effective STEM Leadership” means identifying schools, school districts, postsecondary institutions, business & industry, student-focused nonprofits and community leadership to support implementing and improving STEM teaching and learning in addition to creating a culture that fosters STEM learning with evidence-based resources. Effective STEM leadership develops an understanding of what effective and interconnected STEM education looks like in the classroom and supports the development of learning environments that empower educators to implement innovative STEM education approaches.

(8) “Effective STEM Learning Environments” means supporting student interaction with STEM education during formal and informal settings in ways that promote deeper understanding of real-world complex concepts. Such learning environments need to engage all students in solving complex problems, using highly interactive learning opportunities that create new opportunities for STEM learning across the core curriculum.

(9) “Equity Lens” refers to the commitment and principles adopted by the Oregon Education Investment Board to address inequities of access, opportunity, interest, and attainment for underserved and underrepresented populations in all current and future strategic investments.

(10) “Postsecondary Institution” means a:

(a) A community college operated under ORS Chapter 341.

(b) The following public universities within the Oregon University System:

(A) University of Oregon.

(B) Oregon State University.

(C) Portland State University.

(D) Oregon Institute of Technology.

(E) Western Oregon University.

(F) Southern Oregon University.

(G) Eastern Oregon University.

(c) Oregon Health and Science University.

(d) An Oregon-based, generally accredited, not-for-profit institution of higher education.

(11) “Regional STEM Hub” means a commitment of a group of key stakeholders from different sectors such as, but not limited to school districts, informal education providers, postsecondary institutions, business & industry, student-focused nonprofits, students, families, community members and policy makers to advance state and local educational goals related to science, technology, engineering, mathematics and career & technical education (CTE).

(12) “Statewide STEM Network” means a supportive collaboration between and across Regional STEM Hubs to share knowledge, expertise, insights, and leadership to assist other communities in their efforts to create similar STEM partnerships.

(13) “STEM Education” means an approach to teaching and lifelong learning that emphasizes the natural interconnectedness of the four separate STEM disciplines. Developing and deepening content knowledge and skills in science and mathematics is the foundation of STEM teaching and learning. The natural connections among science, mathematics and STEM are made explicit through collaboration between educators resulting in real and appropriate context built into instruction, curriculum, and assessment. The common element of problem solving is emphasized across all STEM disciplines allowing students to discover, explore, and apply critical thinking skills as they learn.

(14) “STEM Practitioners” refers to individuals engaged in STEM-related professions such as but not limited to, natural resources management, high-tech manufacturing and product devel-

opment, information technology, industrial design, health sciences, software, scientific research, engineering, data analytics, etc.

(15) “Student-Focused Nonprofits” means an organization that meets all of the following requirements:

(a) Is established as a nonprofit organization under the laws of Oregon;

(b) Qualifies as an exempt organization under section 501(c)(3) of the Internal Revenue Code as defined in ORS 314.011; and

(c) Is focused on providing services to students who’s goals or mission are focused on impacting and improving outcomes in STEM education.

(16) “Underserved Students” are students whom systems have placed at risk because of their race, ethnicity, English language proficiency, socioeconomic status, gender, sexual orientation, differently abled, or geographic location.

(17) “Underrepresented Students” in STEM are from demographic groups who’s representation in STEM fields and industries does not mirror regional and national focus populations specifically, women, African American, Native American, Hispanic and Pacific Islander students which systems have provided insufficient or inadequate balance of opportunity.

Stat. Auth.: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Stat. Implemented: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Hist.: ODE 30-2014, f. & cert. ef. 6-24-14; ODE 15-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; Administrative correction, 4-29-16; ODE 34-2016, f. & cert. ef. 5-17-16; ODE 50-2016, f. & cert. ef. 11-1-16

581-017-0302

Fiscal Agent for CTE and STEM Grants

The following entities shall be eligible to be the fiscal agent for the grants available under 581-017-0301 to 0333:

(1) School districts;

(2) Education service district (ESD) as defined in ORS 334.003;

(3) Public schools;

(4) Public charter schools;

(5) Community Colleges; and

(6) Public Universities.

Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Stat. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Hist.: ODE 50-2016, f. & cert. ef. 11-1-16

581-017-0306

Establishment of Regional STEM Hubs

(1) The Regional STEM Hub Grant is established as part of the Connecting to the World of Work Program.

(2) The purposes of these Regional STEM Hubs includes, but is not limited to:

(a) Engage school districts, post-secondary institutions, student-focused nonprofit organizations, business and industry around common outcomes related to increasing students’ proficiency, interest, and attainment in science, technology, engineering and mathematics along with career and technical education.

(b) Align STEM program activities and leverage State and local resources, both financial and human, around common student outcomes to advance the State 40/40/20 goals.

(c) Address ongoing access, opportunity, interest, and attainment gaps for underserved and underrepresented students in STEM consistent with the Equity Lens.

(d) Engage local communities to elevate the importance of STEM to the prosperity of individuals, and the local and state economy.

(e) Promote effective instructional practices by providing professional learning opportunities and to support educators in ways that are consistent with the implementation of the Common Core State Standards and Oregon Science Standards.

(f) Provide age-appropriate career exploration opportunities in STEM for students along the education continuum including career guidance, tours, and internships.

(g) Expand effective STEM learning experiences for students both in and out of school.

(h) Share knowledge, expertise, insights, and leadership to assist other communities in their efforts to create similar STEM partnerships.

(i) Foster greater coherency across institutions to smooth student transitions and support services along education and career pathways.

(j) Diminish the sense of academic isolation and silos, both locally and statewide.

(k) Increase interactions of STEM practitioners with students and educators.

Stat. Auth.: ORS 327.820
Stat. Implemented: ORS 327.820
Hist.: ODE 30-2014, f. & cert. ef. 6-24-14; ODE 15-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; Administrative correction, 4-29-16; ODE 50-2016, f. & cert. ef. 11-1-16

581-017-0309

Eligibility of Regional STEM Hubs

The Oregon Department of Education shall allocate funds for Regional STEM Hubs based on the following criteria:

(1) The following entities shall be eligible for the Regional STEM Hub Grant:

(a) Existing STEM Hubs;

(b) School districts;

(c) Education service districts;

(d) Student-focused nonprofit organizations;

(e) Postsecondary institutions for the purpose of supporting STEM & CTE education; and

(f) Any of the nine federally recognized Native American Tribes in Oregon.

(2) A Regional STEM Hub must be established by a school district, postsecondary institutions or student-focused nonprofit and is required to include the following additional partners at a minimum:

(a) A School District or ESD,

(b) A Postsecondary Education Partner,

(c) A Student-focused nonprofit; and

(d) An Industry, Business or STEM focused Community Partner.

(3) A Regional STEM Hub must be able to demonstrate that the Hub has the following five key elements:

(a) A common agenda;

(b) Shared measurement systems;

(c) Mutually reinforcing activities;

(d) Continuous communication; and

(e) Backbone support organizations.

Stat. Auth.: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Stat. Implemented: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Hist.: ODE 30-2014, f. & cert. ef. 6-24-14; ODE 15-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; Administrative correction, 4-29-16; ODE 50-2016, f. & cert. ef. 11-1-16

581-017-0312

Criteria of Regional STEM Hubs Awards

(1) The Oregon Department of Education shall establish a solicitation and approval process to be conducted each biennium for which the Regional STEM Hub grant funds for operations support and program support are available. The solicitation and approval process must comply with the requirements of section 1, Chapter 763, Oregon Law 2015 (Enrolled House Bill 3072) and rules adopted to implement that section.

(2) The Oregon Department of Education may only award grants for operations support to Regional STEM Hubs which meet the minimum criteria by having a record of success in, or clearly established plans for, addressing the following:

(a) Establishing a partnership for a Regional STEM Hub consisting of the partners identified in OAR 581-017-0309(2);

(b) Selecting and supporting a backbone organization to coordinate and support the various partners of the Regional STEM Hub and ensure effective communication, a focus on data and outcomes, and alignment of programming to address the STEM-related needs of the community; and

(c) Creating, implementing, and improving a Partnership Plan that guides the vision, goals, strategies, and outcomes of the Regional STEM Hub; incorporates the principles of the Equity Lens adopted by the Chief Education Office; and contributes to the achievement of the State's education goals and the STEM-related goals identified by the STEM Investment Council.

(3) The Oregon Department of Education may only award grants for program support to Regional STEM Hubs which meet the minimum criteria by having a record of success in or clearly established plans for addressing the following:

(a) An established Regional STEM Hub with a formalized and approved Partnership Plan, and contributions by partners of human, material, and financial resources;

(b) An established backbone organization to coordinate and support the various partners of the Regional STEM Hub and ensuring effective communication, a focus on data & outcomes, and aligning programming to address the STEM-related needs of the community; and

(c) An approved Partnership Plan that guides the vision, goals, strategies, and outcomes of the Regional STEM Hub; incorporates the principles of the Equity Lens adopted by the Chief Education Office; and contributes to the achievement of the State's education goals and the STEM-related goals identified by the STEM Investment Council.

Stat. Auth.: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Stat. Implemented: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Hist.: ODE 30-2014, f. & cert. ef. 6-24-14; ODE 15-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; Administrative correction, 4-29-16; ODE 34-2016, f. & cert. ef. 5-17-16; ODE 50-2016, f. & cert. ef. 11-1-16

581-017-0315

Implementation of Grant Funding of Regional STEM Hubs

(1) The Oregon Department of Education shall allocate funds to support the operations and programs of expanding and newly established Regional STEM Hubs.

(2) The Department of Education, in collaboration with the Chief Education Office and the STEM Council, shall determine for each biennium the portion of the funds available for operations support and program support grants.

(3) Grantees and the associated Regional STEM Hub will be expected to:

(a) Participate in data collection and reporting progress against agreed upon outcomes determined by the Chief Education Office, the STEM Investment Council, and the Oregon Department of Education;

(b) Engage in mutually reinforcing activities for improving STEM/CTE education with partners within and outside the formal education system;

(c) Engage in collaboration and communication, within and between Regional STEM Hubs, including regular coordination calls, site visits, and convenings; and

(d) Identify and select a backbone organization to coordinate and support the various partners of the Regional STEM Hub and ensuring effective communication, a focus on data & outcomes, and aligning programming to address the STEM-related needs of the community.

Stat. Auth.: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Stat. Implemented: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Hist.: ODE 30-2014, f. & cert. ef. 6-24-14; ODE 15-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; Administrative correction, 4-29-16; ODE 50-2016, f. & cert. ef. 11-1-16

581-017-0318

Reporting of Regional STEM Hubs

(1) The Department of Education shall develop partnership-reporting requirements for allocation of funds for implementation of Regional STEM Hubs as required by the Chief Education Office.

(2) The Department of Education, in collaboration with the STEM Investment Council and the committee established under ORS 344.075, shall submit a biennial report to the Legislative Assembly related to distributions made under this section. The

report must include metrics that identify how distributions made under this section are contributing to the development of a skilled workforce that is able to secure high wage and high demand jobs.

Stat. Auth.: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Stat. Implemented: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Hist.: ODE 30-2014, f. & cert. ef. 6-24-14; ODE 15-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; Administrative correction, 4-29-16; ODE 34-2016, f. & cert. ef. 5-17-16; ODE 50-2016, f. & cert. ef. 11-1-16

581-017-0321

Establishment of the STEM Innovation Grants

The purpose of the STEM Innovation Grant Program is to award grants that expand the implementation of effective programs relating to science, technology, engineering, and mathematics, that:

(1) Propose innovative approaches to STEM-based education; or

(2) Provide professional development relating to science, technology, engineering, and mathematics.

Stat. Auth.: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Stat. Implemented: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Hist.: ODE 30-2014, f. & cert. ef. 6-24-14; ODE 34-2015(Temp), f. 12-23-15, cert. ef. 12-28-15 thru 4-1-16; ODE 18-2016, f. & cert. ef. 3-22-16

581-017-0324

Eligibility of STEM Innovation Grant

The Oregon Department of Education shall allocate funds for the STEM Innovation Grant. The following entities are able to apply for the STEM Innovation Grant:

- (1) STEM Hubs;
- (2) School districts;
- (3) Education service districts as defined in ORS 334.003
- (3) Public schools;
- (4) Public charter schools;
- (5) Student-focused nonprofit organizations who are in partnership with an eligible fiscal agent under OAR 581-017-0302; or
- (4) Post-secondary institutions who are, or are in partnership with, an eligible fiscal agent under OAR 581-017-0302.

Stat. Auth.: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Stat. Implemented: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Hist.: ODE 30-2014, f. & cert. ef. 6-24-14; ODE 34-2015(Temp), f. 12-23-15, cert. ef. 12-28-15 thru 4-1-16; ODE 18-2016, f. & cert. ef. 3-22-16

581-017-0327

Criteria of STEM Innovation Grant

(1) The Oregon Department of Education shall establish a request for proposal, application, or direct grant solicitation and approval process to be conducted each biennium for which the STEM Innovation Grant funds are available.

(2) Eligible recipients will focus on STEM related education with a specific agenda that demonstrates a record of success or clearly established plans for addressing the following through innovative approaches:

(a) Closing the achievement gap for students who are historically underserved students or underrepresented in STEM or both with innovative approaches;

(b) Supporting effective implementation of Oregon's academic standards and relevant technical skills;

(c) Successfully moving students along a P-20 STEM work-force pathway; and

(d) Engaging all students in meaningful, authentic problem-based learning.

(b) The Department shall give priority to proposals that meet the minimum criteria and clearly demonstrates how the grant funds will be used to address the following:

- (A) Establish how underserved and underrepresented students will be engaged and have increased learning opportunities;
- (B) Support new or expand STEM programs and activities;
- (C) Demonstrate a long-term sustainability plan; and
- (D) Collaborate with local business and industry partners or Regional STEM Hubs or both.

(3) The Department of Education may consider the geographic location of grant applicants to ensure geographic diversity within the recipients of grant program funds throughout the state.

(4) Eligible recipients must have a comprehensive system for measuring students' quantitative and qualitative outcomes.

Stat. Auth.: 2013 OL Ch. 661, Sec. 4 (Enrolled HB 3232)

Stat. Implemented: 2013 OL Ch. 661, Sec. 4 (Enrolled HB 3232)

Hist.: ODE 30-2014, f. & cert. ef. 6-24-14; ODE 34-2015(Temp) f. 12-23-15,

cert. ef. 12-28-15 thru 4-1-16; ODE 18-2016, f. & cert. ef. 3-22-16

581-017-0330

Implementation of STEM Innovation Grant

(1) The Oregon Department of Education, in collaboration with the Chief Education Office and the STEM Council, shall determine for each biennium the funds available for the STEM Innovation Grants.

(2) STEM Innovation Grant funds received by a grantee must be separately accounted for and may be used only to provide funding for the purposes described in the application of the grant recipient.

Stat. Auth.: 2013 OL Ch. 661, Sec. 4 (Enrolled HB 3232)

Stat. Implemented: 2013 OL Ch. 661, Sec. 4 (Enrolled HB 3232)

Hist.: ODE 30-2014, f. & cert. ef. 6-24-14; ODE 34-2015(Temp) f. 12-23-15,

cert. ef. 12-28-15 thru 4-1-16; ODE 18-2016, f. & cert. ef. 3-22-16

581-017-0333

Reporting of STEM Innovation Grant

Recipients of the STEM Innovation Grant must report on the grant to the Department of Education. The report must include metrics developed by the Department of Education, in collaboration with the STEM Council and the Chief Education Office.

Stat. Auth.: 2013 OL Ch. 661, Sec. 4 (Enrolled HB 3232)

Stat. Implemented: 2013 OL Ch. 661, Sec. 4 (Enrolled HB 3232)

Hist.: ODE 30-2014, f. & cert. ef. 6-24-14; ODE 34-2015(Temp) f. 12-23-15, cert. ef. 12-28-15 thru 4-1-16; ODE 18-2016, f. & cert. ef. 3-22-16

581-017-0335

Definitions and Establishment of STEM Lab Schools

(1) The following definitions apply to 581-017-0335 TO 581-017-0347:

(a) "Achievement Gap" means the gap in achievement (state test scores in science and mathematics as well as postsecondary degree attainment in STEM) that often exists between students who are economically disadvantaged, students learning English as a second language, African American, Hispanic or Native American compared to their peers.

(b) "Authentic Problem-Based Learning" means using real world questions, problems, and tasks — often drawn from local community issues and industries — as the focus to drive the learning experiences, deepen understanding, and developing rich contextual connections across a variety of STEM and non-STEM disciplines.

(c) "Career and Technical Education (CTE)" is a comprehensive educational program for students based on industry needs. CTE includes coursework in areas such as health care, engineering, and computer science.

(d) "Community Engagement" means a broad collaboration and participation between multiple sectors of the community for the mutually beneficial exchange of knowledge and resources to identify local needs and contribute to larger conversations on visioning planning which may include, but not limited to parent groups and advocacy groups, industry and STEM agencies, economic and workforce groups, student input, and educators.

(e) "Effective STEM Instruction" means the use of evidence-based practices that support interconnected, relevant STEM instruction as stated in definition number fourteen.

(f) "Effective STEM Leadership" means identifying schools, school districts, postsecondary institutions, business & industry, student-focused nonprofits and community leadership to support implementing and improving STEM teaching and learning in addition to creating a culture that fosters STEM learning with evidence-based resources. Effective STEM leadership develops an understanding of what effective and interconnected STEM education looks like in the classroom and supports the development of learning environments that empower educators to implement innovative STEM education approaches.

(g) "Effective STEM Learning Environments" means supporting student interaction with STEM education during formal and informal settings in ways that promote deeper understanding of real-world concepts. Such learning environments must engage all students in solving complex problems, using highly interactive learning opportunities that create new opportunities for STEM learning across the core curriculum.

(h) "Equity Lens" refers to the commitment and principles adopted by the Chief Education Office to address inequities of access, opportunity, interest, and attainment for underserved and underrepresented populations in all current and future strategic investments.

(i) "Postsecondary Institution" means:

(A) A community college operated under ORS Chapter 341.

(B) The following public universities within the Higher Education Coordinating Council:

(i) University of Oregon.

(ii) Oregon State University.

(iii) Portland State University.

(iv) Oregon Institute of Technology.

(v) Western Oregon University.

- (vi) Southern Oregon University.
- (vii) Eastern Oregon University.
- (viii) Oregon Health and Science University.
- (C) An Oregon-based, generally accredited, not-for-profit institution of higher education.

(j) “Regional STEM Hub” means a commitment of a group of key stakeholders from different sectors such as, but not limited to school districts, informal education providers, postsecondary institutions, business & industry, student-focused nonprofits, students, families, community members and policy makers to advance state and local educational goals related to science, technology, engineering, mathematics and career & technical education (CTE).

(k) “School” means a public middle school, high school, community college, or postsecondary institution offering a comprehensive instructional program. A school may include a discreet comprehensive instructional program within a larger school or college.

(l) “Statewide STEM Network” means a supportive collaboration between and across Regional STEM Hubs to share knowledge, expertise, insights, and leadership to assist other communities in their efforts to create similar STEM partnerships.

(m) “STEAM Education” means the incorporation of strategies to enhance science, technology, engineering and mathematics (STEM) education by integrating art and design, and promoting creative possibilities.

(n) “STEM Education” means an approach to teaching and lifelong learning that emphasizes the natural interconnectedness of the four separate STEM disciplines which mirrors the practices and rich contexts of STEM practitioners. Developing and deepening content knowledge and skills in science and mathematics is the foundation of STEM teaching and learning. The natural connections among science, mathematics and STEM are made explicit through collaboration between educators resulting in authentic and appropriate context built into instruction, curriculum, and assessment. The common element of problem solving is emphasized across all STEM disciplines allowing students to discover, explore, and apply critical thinking skills as they learn.

(o) “STEM Lab School” means to establish a school that has a student-centered school culture of inquiry with meaningful and authentic learning environments that integrate STEM and/or STEAM education aligned with state, national and industry standards. This cutting-edge learning center will deepen connections between other educational institutions, business, industry, out-of-school educators, and the local community to create and promote STEM career pathways for students. An intentional focus of a lab school is to support the professional learning of current and future educators, the implementation of innovative education models, and educational research in a manner that increases knowledge and capacity of systems and institutions beyond the school itself.

(p) “STEM Practitioners” refers to individuals engaged in STEM-related professions such as but not limited to, natural resources management, high-tech manufacturing and product development, information technology, industrial design, health sciences, software, scientific research, engineering, data analytics, etc.

(q) “Student-Focused Nonprofits” means an organization that meets all of the following requirements:

(A) Is established as a nonprofit organization under the laws of Oregon;

(B) Qualifies as an exempt organization under section 501(c)(3) of the Internal Revenue Code as defined in ORS 314.011; and

(C) Is focused on providing services to students or educators whose goal or mission is focused on improving student outcomes in STEM education.

(r) “Underserved Students” are students whom systems have placed at risk because of their race, ethnicity, English language proficiency, socioeconomic status, gender, sexual orientation, differently abled, or geographic location.

(s) “Underrepresented Students” in STEM are from demographic groups whose representation in STEM fields and industries does not mirror regional and national focus populations specifically, women, African American, Native American, Hispanic and Pacific

Islander students which systems have provided insufficient or inadequate balance of opportunity.

(2) The STEM Lab Schools Grant is established as part of the Connecting to the World of Work Program.

(3) The purpose of the STEM Lab School Grant is to:

(a) Engage middle school, high school and/or community college students in authentic, inquiry-based learning environments that increase experiential learning opportunities focused on Science, Technology, Engineering, and Mathematics (STEM) education and design-related industries to improve, enhance, and enrich students’ problem-solving capabilities and to foster 21st Century Skills.

(b) Address ongoing access, opportunity, interest and attainment gaps for underserved and underrepresented students in STEM and design-related industries consistent with the Equity Lens.

(c) Promote more effective STEM and design-related industries instructional practices consistent with Common Core State Standards, Oregon State Science Standards and Oregon State Arts Standards by offering educator professional learning opportunities.

Stat. Auth.: ORS 327.800

Stat. Implemented: ORS 327.820

Hist.: ODE 2-2014(Temp), f. & cert. ef. 2-19-14 thru 8-17-14; ODE 31-2014, f. & cert. ef. 6-24-14; ODE 34-2016, f. & cert. ef. 5-17-16

581-017-0338

Eligibility of STEM Lab Schools

(1) The Oregon Department of Education may allocate funds for STEM Lab Schools to the following entities:

- (a) Public Schools;
- (b) School districts;
- (c) Student-focused nonprofit organizations; or
- (d) Postsecondary institutions for the purpose of supporting STEM education.

(2) A single grant proposal may include more than one eligible applicant and other entities but the lead agency for the proposal must be one of entities listed in subsection (1) of this rule.

Stat. Auth.: ORS 327.800

Stat. Implemented: ORS 327.820

Hist.: ODE 2-2014(Temp), f. & cert. ef. 2-19-14 thru 8-17-14; ODE 31-2014, f. & cert. ef. 6-24-14

581-017-0341

Criteria of STEM Lab Schools

(1) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted each biennium for which the STEM Lab School grant funds are available. All proposals must comply with the requirements of ORS 327.800 and 327.820 and rules adopted to implement those statutes.

(2) Eligible public schools, school districts, postsecondary institutions, and student-focused nonprofit organizations will focus on STEM education and design-related industry with a specific agenda that demonstrates a record of success or clearly established plans for addressing the following:

(a) Closing the achievement gap for underserved students and those underrepresented in STEM fields with innovative approaches.

(b) Support effective implementation of the Common Core State Standards, the Oregon State Science Standards and the Oregon State Arts Standards.

(c) Successfully move students along a P-20 STEM workforce pathway.

(d) Engage students in meaningful, authentic, problem-based learning that will support the Oregon’s 40-40-20 goal.

(e) Provide professional learning opportunities that support educator effectiveness.

(3) Eligible public schools, school districts, student-focused nonprofit organizations, and post-secondary institutions must have a comprehensive system for measuring students’ quantitative and qualitative outcomes, provide documented data and ensure that the resources received will be used to provide STEM career pathway opportunities to students.

Stat. Auth.: ORS 327.800

Stat. Implemented: ORS 327.820

Hist.: ODE 2-2014(Temp), f. & cert. ef. 2-19-14 thru 8-17-14; ODE 31-2014, f. & cert. ef. 6-24-14

581-017-0344

Implementation of Grant Funding of STEM Lab Schools

(1) The Oregon Department of Education shall allocate funds to support STEM Lab Schools.

(2) Each grantee may receive funds between \$300,000 and \$700,000 for use during the 2013–2015 biennium.

Stat. Auth.: ORS 327.800

Stat. Implemented: ORS 327.820

Hist.: ODE 2-2014(Temp), f. & cert. ef. 2-19-14 thru 8-17-14; ODE 31-2014, f. & cert. ef. 6-24-14

581-017-0347

Reporting of STEM Lab Schools

The Department of Education shall develop partnership-reporting requirements for allocation of funds for implementation of STEM Lab Schools as required by the Chief Education Office.

Stat. Auth.: ORS 327.800

Stat. Implemented: ORS 327.820

Hist.: ODE 2-2014(Temp), f. & cert. ef. 2-19-14 thru 8-17-14; ODE 31-2014, f. & cert. ef. 6-24-14; ODE 34-2016, f. & cert. ef. 5-17-16

581-017-0350

Definitions

The following definitions apply to OAR 581-017-0350 to 581-017-0362:

(1) “Consortium” means the equal partnership developed to form the cross-sector collaboration between eligible educational institutions.

(2) “Opportunity Gap” means the gap in opportunities that often exists between students who are economically disadvantaged, students with disabilities, students learning English as a second language, African American, Hispanic or Native American when compared to their peers who do not share these characteristics. This can often lead to a gap in achievement (state test scores in reading, writing, and mathematics as well as diploma and post-secondary degree attainment).

(3) “Postsecondary Institution” means:

(a) A community college operated under ORS chapter 341 or,
(b) The following public universities:

- (A) University of Oregon
- (B) Oregon State University
- (C) Portland State University
- (D) Oregon Institute of Technology
- (E) Western Oregon University
- (F) Southern Oregon University
- (G) Eastern Oregon University
- (H) Oregon Health and Science University

(c) An Oregon-based accredited not-for-profit institution of higher education

(4) “Private post-secondary institution” means an Oregon-based, general accredited, not-for-profit institution of higher education.

(5) “Significant population” means to serve the majority of underserved students within the consortiums region.

(6) “Underserved student” means a student (English language learner, student of color, an economically disadvantaged student or a student with disabilities) who has not historically taken high school accelerated courses and may not have considered enrolling in a post-secondary education program.

(7) “Variety” means students having access to a choice of courses offered in core academic subjects, in different forums (which include yet are not limited to distance learning, high school campus, college campus, by proficiency assessment or through credit for prior learning), that are eligible for transfer.

Stat. Auth.: ORS 327.800

Stat. Implemented: ORS 327.820

Hist.: ODE 3-2014(Temp), f. & cert. ef. 2-19-14 thru 8-17-14; ODE 29-2014, f. & cert. ef. 6-24-14; ODE 17-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-14-16; ODE 10-2016, f. & cert. ef. 2-5-16

581-017-0353

Regional Promise Grant Program Establishment

(1) The Regional Promise Grant is established as part of the Connecting the World to Work Program Strategic Investment under ORS 327.820.

(2) The purposes of the grant are to:

(a) Connect students to the World of Work and post-secondary education/training opportunities;

(b) Develop consortiums of school districts, education service districts and post-secondary institutions of higher education committed to developing innovative and flexible pathways for students in grades 6 through 12 and in community colleges; and

(c) Distribute moneys to consortia that include at least three school districts, at least one education service district, and at least one public post-secondary institution of higher education to design and deliver individualized, innovative and flexible ways of delivering content, awarding high school and college credit, and increasing the number of historically underserved students participating in accelerated college credit courses.

Stat. Auth.: ORS 327.800

Stat. Implemented: ORS 327.820

Hist.: ODE 3-2014(Temp), f. & cert. ef. 2-19-14 thru 8-17-14; ODE 29-2014, f. & cert. ef. 6-24-14; ODE 10-2016, f. & cert. ef. 2-5-16

581-017-0356

Eligibility

The Department of Education shall allocate funds for the Regional Promise Program grant to consortia that consist of at least three school districts, at least one education service district, and at least one public post-secondary institution.

Stat. Auth.: ORS 327.800

Stat. Implemented: ORS 327.820

Hist.: ODE 3-2014(Temp), f. & cert. ef. 2-19-14 thru 8-17-14; ODE 29-2014, f. & cert. ef. 6-24-14; ODE 10-2016, f. & cert. ef. 2-5-16

581-017-0359

Implementation of Grant Funding

(1) The Department of Education will make awards between \$300,000 and \$750,000 (adjusted by justifiable need) for replication of the Eastern Promise program.

(2) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted for the Regional Promise program funds. All proposals will comply with the requirements of ORS 327.800 and 327.820(3)(a)(D) and rules adopted to implement those sections.

(3) Awards will be based on the following criteria:

(a) Whether the proposal identifies how the funds will be used to reach the 40-40-20 goal by using a regional approach and strengthening relationships and aligning outcomes and expectations across education sectors to implement the 5 main components of the Regional Promise Program (based on the 5 pillars of Eastern Promise).

(b) Whether the applicant proposal demonstrates support, commitment and readiness to design or revise programming specifically targeted at closing opportunity gaps.

(c) Whether there is a commitment to cross-sector collaboration between education service district(s), school districts, and post-secondary institutions of higher education.

(d) Whether there is a commitment and capacity to provide students with a variety of accelerated learning opportunities, such as on-campus experiences, dual credit, Advanced Placement, International Baccalaureate, and to ensuring students receive support and specific instruction around the knowledge, skills and behaviors necessary to be successful in college-level coursework.

(e) Whether there is a commitment and capacity to develop cross-sector professional learning, including faculty and teachers from post-secondary institution and ESD/high schools of like disciplines. The consortium will ensure that all levels of instruction are represented and participate in discussing and establishing the appropriate curriculum, instruction, and parallel assessment to measure outcomes.

(f) Whether there is a commitment and capacity to foster a college-going culture, which refers to the environment, attitudes,

and practices in schools and communities that encourage students and their families to obtain the information, tools, and perspective to enhance access to and success in postsecondary education. The applicant should describe a plan for one or more, programs servicing students, beginning in middle grades, that:

(A) Helps students learn about options for their future, careers and the education they require;

(B) Convey the expectation that all students can prepare for the opportunity to attend and be successful in post-secondary education; and

(C) Ensure schools, families, and communities give students the same message of high expectations for their future.

(4) The Department shall give priority to proposals that meet the minimum criteria and:

(a) Previously funded projects that will use the grant to ensure sustainability of the program.

(b) The extent to which the applicant clearly documents its capacity to implement and carry out programming.

(5) The Department of Education shall allocate funds for the grant program based on the evaluation of the grant application and the following considerations:

(a) Programs representing the five main components of the Regional Promise Program.

(b) Competitive priority will be given to applications that include both a local community college and a 4-year university in their consortium.

(c) Programs that exhibit innovative and flexible ways of delivering content, awarding high school and college credit and providing development education for students in high school or in the first two years of post-secondary education.

(d) The number of students the Regional Promise Program will serve.

(e) Programs with a detailed process to identify, enroll, support and retain underserved students.

(f) Programs that have a high level of underserved students who historically have not taken college credit in high school.

(g) Geographic locations of the program organization to ensure geographic representation of the targeted student groups are included throughout the state.

(6) Each award may be between \$300,000 and \$750,000.

(7) Grant recipients shall use funds received for the planning, implementation, and evaluation of the grant for activities outlined in the request for proposal.

(8) Grant recipients must be able to expend the funds for allowable purposes specified in the request for proposal within the grant timeline according to acceptable accounting procedures.

(9) Grant recipients will document and account for each student participating in, enrolled in, and completing accelerated college courses supported by the grant before the final distribution of grant funds.

Stat. Auth.: ORS 327.800

Stat. Implemented: ORS 327.820

Hist.: ODE 3-2014(Temp), f. & cert. ef. 2-19-14 thru 8-17-14; ODE 29-2014, f. & cert. ef. 6-24-14; ODE 10-2016, f. & cert. ef. 2-5-16

581-017-0362

Timelines and Performance Measures

The Regional Promise program shall provide award recipients a template for an interim, legislative, and final grant report. Recipients are required to submit the all reports and teacher and student data prior to their final request for funds.

Stat. Auth.: ORS 327.800

Stat. Implemented: ORS 327.820

Hist.: ODE 3-2014(Temp), f. & cert. ef. 2-19-14 thru 8-17-14; ODE 29-2014, f. & cert. ef. 6-24-14; ODE 17-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-14-16; ODE 10-2016, f. & cert. ef. 2-5-16

581-017-0365

Definitions

The following definitions apply to OAR 581-017-0365 to 581-017-0375:

(1) “American Indian”/Alaska Native means persons having origins in any of the original peoples of North and South America

(including Central American) and who maintain tribal affiliation or community attachment.

(2) “Tribe” means:

(a) The Confederated Tribes of the Warm Springs Indian Reservation.

(b) The Confederated Tribes of the Umatilla Indian Reservation.

(c) The Burns-Paiute Tribe.

(d) The Confederated Tribes of Siletz Indians of Oregon.

(e) The Confederated Tribes of the Grand Ronde.

(f) The Cow Creek Band of Umpqua Indians.

(g) The Confederated Coos, Lower Umpqua and Siuslaw Tribes.

(h) The Klamath Tribe.

(i) The Coquille Tribe.

(3) “Tribal(ly) enrolled” means an individual who is recognized as a member of one of the Oregon nine federally recognized tribal governments.

(4) “Chronic absenteeism” means missing 10% or more of school days in an academic year.

(5) “Family/community advocate” means a community-based individual hired in collaboration with the designated tribe to develop strategies and partnerships with relevant community resources to staff and implement the attendance project in the designated school district

(6) “Non-profit organization” means:

(a) An organization established as a nonprofit organization under the laws of Oregon; and

(b) Qualifies as an exempt organization under section 501(c)(3) of the Internal Revenue Code as defined in ORS 314.011.

(7) “Title VII Indian Education” means a federally funded program receiving United States Department of Education Title VII — Indian, Native Hawaiian, and Alaska Native Education funding.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 26-2016, f. & cert. ef. 4-7-16

581-017-0367

Establishment

(1) The Tribal Attendance Pilot Project is established to support collaboration between tribes and school districts in efforts to design, implement, and improve the attendance of American Indian/Alaska Native students in schools.

(2) The Department of Education shall award non-competitive grants to qualified applicants.

(3) The grant funds will be used to hire a family advocate position that would work to create effective strategies to reduce absenteeism for American Indian Alaska Native students in a pre-elected school or schools. Grant recipients shall use best practice concepts which include the following five components:

(a) Recognizing good and improved attendance;

(b) Engaging students and parents in school culture;

(c) Monitoring and reporting attendance data and practices;

(d) Providing personalized early intervention and outreach supports; and

(e) Development of programmatic responses to identified barriers as needed.

(4) Additional expectations of the grant will focus on planning, implementing, and monitoring the strategies applied to reduce chronic absenteeism. These strategies should include these goals:

(a) Robust collaboration between tribe and school district;

(b) Strengthening relationships between school district, local community services, and federally recognized tribal government programs;

(c) Improving the attendance of American Indian/Alaska Native students, and positive impact to the entire school community around regular attendance; and

(d) Development, implementation, monitoring, and dissemination of best practices in an effort to reduce chronic absenteeism and overcome barriers to regular attendance.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

581-017-0369

Eligibility

(1) To be eligible to receive the Tribal Attendance Pilot Project funds, a qualified applicant must:

- (a) Be a school district identified by one of the tribes.
- (b) Be prepared to enter into an inclusive partnership with the designating tribe.
- (c) Include tribal consultation in the hiring of the family advocate position (1.0 FTE).
- (d) Track and disseminate attendance data with the Department of Education and tribal representatives.

(2) Qualified applicants must be available to work with the consulting team provided by the Department to receive guidance and support.

(3) A single grant may be used to serve more than one school as long as the program goals can be met by the single hire (1.0 FTE) in the course of a normal (40 hour) work week.

(4) The Department shall monitor the programs, provide technical assistance and training, support parental outreach, provide coordination of efforts, develop and report out lessons learned and best practices, and implement a broad-based messaging campaign about the importance of school attendance.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 26-2016, f. & cert. ef. 4-7-16

581-017-0371

Criteria

(1) The Oregon Department of Education shall establish a request for participation and develop criteria to gauge full participation in the Tribal Attendance Pilot Project. All proposals must comply with the requirements of OAR 581-017-0365 to 581-017-0375.

(2) The Department shall award grants on the following criteria:

(a) Whether the grant application identifies how the district will partner with the local tribe, tribal representatives, and families to improve attendance for American Indian/Alaska Native students;

(b) Whether the grant application describes a strong and robust plan to meet the needs of American Indian/Alaska Native students and families to reduce chronic absenteeism;

(c) Whether the grant application describes expected outcomes and a strong and robust plan to achieve those outcomes;

(d) Whether the grant application demonstrates how district and community partners will collaborate on a mutually designed proposal in which all essential parties participate;

(e) Whether the grant application meets the requirements of OAR 581-017-0365 to 581-017-0375; and

(f) Whether the grant application clearly documents the school district's and tribe's capacity to implement and carry out programming and services for the Tribal Attendance Pilot Project and demonstrates intentions to work in a collaboration with identified partners.

(3) A grant application must include a description of how the school district and tribe will collaborate with other governmental entities and private organizations to meet the goals of the grant, including, not limited to:

- (a) Title VII Indian Education Programs;
- (b) Post-secondary institutions;
- (c) Youth organizations;
- (d) Health providers and consortia;
- (e) Advocacy organizations, and other private, non-profit, business, and faith-based organizations as appropriate;
- (f) Juvenile justice, police, parole and probation, and other needed enforcement agencies;
- (g) Counseling, mental health, and other social service providers; and
- (h) Food banks and nutrition specialists.

(4) A grant application must include a description of a plan for communication with families that is regular, uses diverse media channels and shares student achievement status and goals.

(5) A grant application must include an Attendance Project Plan that:

- (a) Reflects relevant research and practices;
- (b) Uses and monitors local data;
- (c) Recognizes good and improved attendance;
- (d) Engages students and parents;
- (e) Provides personalized early intervention and outreach; and
- (f) Develops programmatic responses to barriers (as needed).

(6) A grant application must provide a sustainability plan to continue the program for at least two years after the grant funding has ended.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 26-2016, f. & cert. ef. 4-7-16

581-017-0373

Funding

(1) The Department will award grants of up to \$150,000 based on participation per pilot site. If a pilot site either does not participate in the grant or does not meet the requirements of the grant, monies designated for that pilot site may be distributed equally among the other pilot sites even if the pilot sites have already received the maximum award under this subsection.

(2) Grantees shall use funds received for activities outlined in the participation proposal including the hiring of one community-based family advocate (1.0 FTE).

(3) Grantees must be able to expend the funds for allowable purposes specified in the request for proposal within the grant timeline according to acceptable accounting procedures.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 26-2016, f. & cert. ef. 4-7-16

581-017-0375

Reporting

(1) Grant recipients will provide detailed responses to surveys and questionnaires as developed by the Oregon Department of Education no more than five (5) times during the grant cycle.

(2) The Oregon Department of Education shall provide grant recipients a template for a 6-month report, (June 30, 2016), an interim report (January 15, 2017) and a Final Review report (July 31, 2017) that includes a detailed narrative prior to receiving the final funds.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 26-2016, f. & cert. ef. 4-7-16

581-017-0380

Definitions

The following definitions apply to OAR 581-017-0380 to 581-017-0395:

(1) "K-12 Biliteracy Pathways Grant" means the Grant established in OAR 581-017-0383 to implement ORS 336.079.

(2) "K-12 Biliteracy Pathway" means an educational program that begins in at least Kindergarten and continues through grade 12 that promotes biliteracy outcomes and provides students who complete this pathway with the skills necessary to earn a State Seal of Biliteracy. For the purposes of this grant, these pathways must include an existing dual language program that:

- (a) Already serves students at the elementary school level;
- (b) Also operates at or there are plans for expansion to the middle and high school level; and
- (c) Is primarily designed to serve English Learners.

(3) "Dual language program" means any program that provides literacy and content instruction to all students through two languages and that promotes bilingualism and biliteracy, grade-level academic achievement, and multicultural competence for all students. This grant is intended to support dual language programs that are primarily designed to serve English Learners. These types of dual language programs are commonly referred to as two-way

immersion, developmental bilingual, and heritage language programs.

Stat. Auth.: ORS 326.051
Stat. Implemented: ORS 336.079
Hist.: ODE 14-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; ODE 1-2016, f. & cert. ef. 2-5-16

581-017-0383 Establishment

There is established the K–12 Biliteracy Pathways Grant, which is intended to support Oregon public school districts or public charter schools to develop and implement model dual language programs and K–12 Biliteracy Pathways. This includes improving existing K–12 dual language programs, as well as expanding well-implemented elementary programs into middle and high school.

Stat. Auth.: ORS 326.051
Stat. Implemented: ORS 336.079
Hist.: ODE 14-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; ODE 1-2016, f. & cert. ef. 2-5-16

581-017-0386 Eligibility

(1) The following entities shall be eligible to receive the K–12 Biliteracy Pathways Grant:

- (a) School districts
- (b) Public charter schools; and
- (c) Consortium of school districts, public charter schools or an Education Service District (ESD). Each consortium must have at least one school district or public charter school as a member.

(2) A single grant proposal may include more than one eligible applicant.

Stat. Auth.: ORS 326.051
Stat. Implemented: ORS 336.079
Hist.: ODE 14-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; ODE 1-2016, f. & cert. ef. 2-5-16

581-017-0389 Criteria

(1) The Oregon Department of Education (ODE) shall establish a request for proposal solicitation and approval process to be conducted each biennium for which the K–12 Biliteracy Pathways Grant funds are available.

(2) Grants shall be awarded based on the following criteria:

(a) Whether the grant application identifies how English Learners enrolled in the applicants school(s) will benefit from the proposed K–12 Biliteracy Pathway

(b) Whether the grant application demonstrates school district or public charter school support, commitment and readiness to design K–12 Biliteracy Pathways Grant program.

(3) ODE shall give priority to proposals that meet the minimum criteria and:

(a) Provide a sustainability plan to continue to the program for at least two additional years after the grant period ends.

(b) The extent to which the applicant clearly documents its capacity to implement a model K–12 Biliteracy Pathway, including demonstrated intentions to work in a collaborative way with other grantees.

(4) ODE shall allocate funds for the grant program based on the evaluation of the grant application and the following considerations:

(a) Geographic location of district to insure geographic diversity within the recipients of grant program funds throughout the state;

(b) Districts who have a high level of students who are economically disadvantaged and;

(c) Give preference to districts or schools that have demonstrated success in improving student outcomes, particularly for English Learners.

(5) ODE may also provide funding on a non-competitive basis to previous Dual Language Grant recipients for the purposes of fostering K–12 Biliteracy Pathways at these sites and to support a more complete evaluation of dual language programs and K–12 Biliteracy Pathways across the state.

Stat. Auth.: ORS 326.051
Stat. Implemented: ORS 336.079
Hist.: ODE 14-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; ODE 1-2016, f. & cert. ef. 2-5-16

581-017-0392 Funding

(1) Each grantee who is awarded a competitive K–12 Biliteracy Grant based on the criteria identified in OAR 581-017-0389(1) to (4) may receive up to \$120,000 for the biennium.

(2) Each grantee who is awarded a non-competitive K–12 Biliteracy Grant based on the criteria identified in OAR 581-017-0389(5) may receive up to \$40,000 for the biennium.

(3) Grantees shall use funds for planning, implementation and evaluation activities associated with the development and/or improvement of their dual language program into a model for statewide replication, and shall engage administrators, teachers, parents and the community in the design, implementation and evaluation of the program with a focus on building school and school district capacity to sustain efforts.

(4) Grantees must be able to expend the funds for allowable purposes specified in the request for proposal within the grant timeline according to acceptable accounting procedures.

Stat. Auth.: ORS 326.051
Stat. Implemented: ORS 336.079
Hist.: ODE 14-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; ODE 1-2016, f. & cert. ef. 2-5-16

581-017-0395 Reporting

The Oregon Department of Education shall provide to grant recipients a template for an interim and final grant report. Grantees are required to submit a final report prior to receiving their final request for funds.

Stat. Auth.: ORS 326.051
Stat. Implemented: ORS 336.079
Hist.: ODE 14-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; ODE 1-2016, f. & cert. ef. 2-5-16

581-017-0432 Definitions

As used in OAR 581-017-0432 to 581-017-0447:

(1) “Commodity commissions or councils” means a commodity commission or council organized under ORS 576.051 to 576.455, the Oregon Beef Council, and the Oregon Wheat Commission.

(2) “Including” means including but not limited to.

(3) “Nonprofit organization” means:

(a) A nonprofit business corporation incorporated under ORS Chapter 65;

(b) A foreign nonprofit business corporation authorized to transact business in the state of Oregon; or

(c) An organization that is recognized as tax exempt under section 501(c)(3) of the Internal Revenue Code of 1986.

(4)(a) “School district” means an Oregon common school district, joint school district, union high school district, or public charter school.

(b) “School district” does not include an education service district.

Stat. Auth.: OL 2015, ch. 840, sec.13
Stats. Implemented: OL 2015, ch. 840, sec.13
Hist.: ODE 11-2016, f. & cert. ef. 2-5-16; ODE 47-2016, f. & cert. ef. 11-1-16

581-017-0435 Purpose

(1) The purpose of the competitive Oregon Farm to School Program grant is to assist entities in paying the costs they incur providing food-based, agriculture-based, or garden-based educational activities in a school district.

(2) A school district, nonprofit organization, or commodity commission or council that receives a competitive Oregon Farm to School Program grant may use the grant for costs directly associated with the educational activities offered to children enrolled in either a public school or public charter school within a

school district, including staff time, supplies, equipment, and travel.

Stat. Auth.: OL 2015, ch. 840, sec.13

Stats. Implemented: OL 2015, ch. 840, sec.13

Hist.: ODE 11-2016, f. & cert. ef. 2-5-16; ODE 47-2016, f. & cert. ef. 11-1-16

581-017-0438

Eligibility

(1) A school district, nonprofit organization, or commodity commission or council may apply for a competitive Oregon Farm to School Program grant.

(2)(a) A school district, nonprofit organization, or commodity commission or council that applies for a competitive Oregon Farm to School Program grant may partner with one or more organizations to provide food-based, agriculture-based, or garden-based educational activities in a school district. Grant applicants that partner with other organizations to provide educational activities must serve as the fiscal agent for the partnered organizations.

(b) Fiscal agents are responsible for:

(A) Ensuring that their partner organizations comply with the terms and conditions of the competitive Oregon Farm to School Program grant;

(B) Overseeing the delivery of food-based, agriculture-based, or garden-based educational activities to children enrolled in either a public school or public charter school within a school district;

(C) Ensuring that the educational activities offered satisfy the criteria identified in OAR 581-017-0441, the request for proposals, and any related guidance documents produced by the Oregon Department of Education;

(D) Maintaining all records regarding the educational activities offered using, and costs paid for with, grant funds; and

(E) Delivering those records and any completion reports regarding the educational activities funded with, and the expenditure of, grant funds to the Oregon Department of Education.

(3) A school district, nonprofit organization, or commodity commission or council may lose its eligibility to apply for a competitive Oregon Farm to School Program grant during the succeeding biennium, or continue receiving a previously awarded grant, if the school district, nonprofit organization, or commodity commission or council does not:

(a) Comply with the applicable provisions of Oregon Laws 2015, chapter 840, section 13 (Enrolled Senate Bill 501);

(b) Comply with the provisions of OAR 581-017-0432 to 581-017-0447;

(c) Comply with the grant criteria printed in the competitive Oregon Farm to School Program grant request for proposal and any related guidance documents produced by the Oregon Department of Education;

(d) If awarded a competitive Oregon Farm to School Program grant, spend the entire amount of the grant award during the biennium for with the grant was awarded; or

(e) If awarded a competitive Oregon Farm to School Program grant, spend the majority of the grant award on food-based, agriculture-based, or garden-based educational activities for the benefit of children enrolled in either a public school or public charter school within a school district.

Stat. Auth.: OL 2015, ch. 840, sec.13

Stats. Implemented: OL 2015, ch. 840, sec.13

Hist.: ODE 11-2016, f. & cert. ef. 2-5-16; ODE 47-2016, f. & cert. ef. 11-1-16

581-017-0441

Application Process and Criteria

(1) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted each biennium for which competitive Oregon Farm to School Program grant funds are available.

(2) The department shall notify school districts, nonprofit organizations, and commodity commissions or councils of the proposal process and the dates when proposals are due, and make available necessary guidelines and application forms.

(3)(a) School districts, nonprofit organizations, and commodity commissions or councils must submit their grant proposals on the most current form prescribed by the department. The department

shall publish the current request for proposals solicitation forms on the department's website.

(b) If a school district, nonprofit organization, or commodity commission or council that has applied for a competitive Oregon Farm to School Program grant is unable to provide the information required in the request for proposals, then the grant applicant must provide an explanation why the information cannot be provided. Grant applicants may submit additional information that will aid the department in evaluating their grant proposals.

(4) To be considered by the department, the grant proposals submitted by school districts, nonprofit organizations, or commodity commissions or councils must include the following information:

(a) The name of the school district in which the educational activities will be offered;

(b) The name of the person who will serve as the grant applicant's primary contact regarding the grant proposal and that person's contact information, including the primary contact's email address and telephone number;

(c) The name of the organizations which the grant applicant either has partnered, or is intending to partner, with for the purpose of providing food-based, agriculture-based, or garden-based educational activities for the benefit of children enrolled in either a public school or public charter school within a school district;

(d) The name and contact information of the persons who will serve as the partner organizations' primary contacts regarding the grant proposal and the educational activities the grant applicant and its partner organizations intend to provide;

(e) A description of the educational activities the grant applicant proposes to offer;

(f) An explanation of how the educational activities the grant applicant proposes to offer with grant funds will address the grant criteria and benefit children enrolled in either a public school or public charter school within a school district;

(g) An estimate of the costs associated with providing the proposed educational activities; and

(h) An analysis of the proposed educational activities and the proposed means of delivering those programs using the Equity Lens adopted under OAR 581-017-0010.

(5) Grant applicants' proposals will be reviewed for completeness and how well they address the evaluation criteria adopted by the department. The Oregon Department of Education shall give preference to eligible entities that propose educational activities that:

(a) Are well designed;

(b) Promote healthy food activities;

(c) Have clear educational objectives;

(d) Involve parents or the community;

(e) Are connected to a school district's farm-to-school procurement activities; and

(f) Are culturally relevant to the students being served by the grant moneys.

(6) Additional information may be required and additional criteria may be identified in the applicable request for proposal and guidelines published by the department.

(7) Recipients of a competitive Oregon Farm to School Program grant will:

(a) Represent a variety of school sizes and geographic locations; and

(b) Serve a high percentage of children who qualify for free or reduced price school meals under the United States Department of Agriculture's National School Lunch Program.

Stat. Auth.: OL 2015, ch. 840, sec.13

Stats. Implemented: OL 2015, ch. 840, sec.13

Hist.: ODE 11-2016, f. & cert. ef. 2-5-16; ODE 47-2016, f. & cert. ef. 11-1-16

581-017-0444

Awarding and Using Competitive Oregon Farm to School Program Grants

(1) The Oregon Department of Education shall allocate funds for competitive Oregon Farm to School Program grants.

(2) Competitive Oregon Farm to School Program grants will be awarded to those school districts, nonprofit organizations, or

commodity commissions or councils whose grant proposals are judged by the department as best addressing the applicable evaluation criteria.

(3) The department will notify those school districts, nonprofit organizations, or commodity commissions or councils selected for a proposed competitive grant award by either mail or email. Within two weeks of receiving notice, the entity must notify the department whether it accepts the award.

(4) The department will award the first competitive Oregon Farm to School Program grants for the biennium beginning on July 1, 2015, and ending on June 30, 2017. If funding is available, additional competitive grants will be awarded in subsequent biennia.

(5) The amount of each competitive Oregon Farm to School Program grants awarded by the department in any biennia will be at least \$2,000.00 and no more than \$100,000.00.

(6) A school district, nonprofit organization, or commodity commission or council which is awarded a competitive Oregon Farm to School Program grant may use up to ten percent of the total amount awarded for each of the following:

(a) Direct administrative costs, including administrative labor and supplies; and

(b) Costs associated with planning and developing the food-based, agriculture-based, or garden-based educational activities the grant recipient proposes to offer for the benefit of children enrolled in either a public school or public charter school within a school district.

(7) Grant funds awarded for use in one biennium may not be carried over to the following biennium, and will revert to the department at the end of the biennium, unless otherwise determined by the department.

(8) Grant recipients must deposit the grant funds they receive in a separate account, or assign them a separate account or index number. Grant funds may only be used for the purpose of providing the food-based, agriculture-based, or garden-based educational activities it proposed to offer for the benefit of children enrolled in either a public school or public charter school within a school district.

(9) Grant recipients may not charge indirect costs to their grant award.

Stat. Auth.: OL 2015, ch. 840, sec.13

Stats. Implemented: OL 2015, ch. 840, sec.13

Hist. : ODE 11-2016, f. & cert. ef. 2-5-16; ODE 47-2016, f. & cert. ef. 11-1-16

581-017-0447

Performance Measures and Reporting

(1) The Oregon Department of Education shall publish performance measures for recipients of a competitive Oregon Farm to School Program grant in the request for proposals solicitation forms and any related guidance documents produced by the department.

(2) The department shall provide grant recipients with a template for an interim and final grant report. To receive the final disbursement of grant funds, grant recipients must submit both a completed interim and final grant report to the department.

Stat. Auth.: OL 2015, ch. 840, sec.13

Stats. Implemented: OL 2015, ch. 840, sec.13

Hist. : ODE 11-2016, f. & cert. ef. 2-5-16; ODE 47-2016, f. & cert. ef. 11-1-16

581-017-0450

Establishment

(1) The Oregon CTE Teacher Preparation Program is established pursuant to sections 1 and 11, chapter 763, Oregon Laws 2015 (Enrolled HB 3072).

(2) The purpose of the Oregon CTE Teacher Preparation Program is to facilitate the recruitment and retention of industry professionals into the education profession as classroom teachers in career and technical education through preparation in a Teacher Standards and Practices approved educator program.

(3) To accomplish the purpose of the CTE Teacher Preparation Program, the Oregon Department of Education shall distribute funds to establish:

(a) A consortia of Teacher Standards and Practices Commission approved teacher education institutions responsible for developing

coursework that fulfills licensure requirements established by the

Oregon Teacher Standards and Practice Commission for career and

technical education teachers; and

(b) A network of providers of professional development for

both pre-service and in-service career and technical education

teachers.

Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Stat. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Hist. : ODE 12-2016, f. & cert. ef. 2-5-16

581-017-0453

Eligibility

(1) The Department of Education will award grants to support the creation of the CTE Teacher Preparation Program to the following eligible recipients:

(a) Teacher Standards and Practices Commission approved teacher education institutions for the purpose of developing and maintaining coursework for that fulfills licensure requirements established by the Oregon Teacher Standards and Practice Commission for career and technical education teachers; and

(b) Teacher Standards and Practices Commission approved teacher education institutions, community Colleges, education service districts, school districts, public schools, and charter schools, for the purpose of providing professional development for both pre-service and in-service career and technical education teachers.

(2) Eligible recipients may use funds received through the CTE Teacher Preparation Program to contract with private businesses and nonprofits for the purpose of providing experiential learning opportunities for teachers.

Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Stat. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Hist.: ODE 12-2016, f. & cert. ef. 2-5-16

581-017-0456

Criteria

(1) The Department of Education shall establish a request for application solicitation and approval process for the consortia of Teacher Standards and Practices Commission approved teacher education institutions responsible for developing and maintaining coursework.

(2) The Department of Education may only award grants for developing and maintaining coursework to eligible entities that meet the following minimum criteria:

(a) A commitment to participate in the consortia established by the CTE Teacher Preparation Program;

(b) A commitment to work with other members of the consortia to develop a shared curriculum that fulfills licensure requirements established by the Oregon Teacher Standards and Practice Commission for career and technical education teachers;

(c) A demonstrated record of success educating teachers; and

(d) Official program recognition and accreditation through the Teachers Standards and Practices Commission.

(3) The Department of Education shall establish a request for proposal solicitation and approval process for the network of providers of professional development.

(4) The Department of Education may only award grants for professional development to eligible entities that have a demonstrated record of success in, or a clearly established plan for, providing professional development, recruitment, and retention of both pre-service and in-service CTE teachers designed around Oregon Career Learning Areas, the Common Career Technical Core, or the National College and Career Readiness Standards.

(5) In allocating funds, the Department of Education may take into consideration the evaluation of the grant application and geographic location to ensure geographic diversity within the recipients of grant program funds throughout the state.

Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Stat. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Hist.: ODE 12-2016, f. & cert. ef. 2-5-16

581-017-0459

Funding

(1) The Department of Education shall determine for each biennium the portion of the funds available for the consortia of Teacher Standards and Practices Commission approved teacher education institutions responsible for developing and maintaining coursework and for the network of providers of professional development.

(2) CTE Teacher Preparation Program funds received under this section must be separately accounted for and may be used only to provide funding for the purposes described in the application of the grant recipient.

Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Stat. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Hist.: ODE 12-2016, f. & cert. ef. 2-5-16

581-017-0462

Reporting

Recipients of the CTE Teacher Preparation Program grant must report on the grant to the Department of Education. The report must include metrics developed by the Department of Education.

Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Stat. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Hist.: ODE 12-2016, f. & cert. ef. 2-5-16

581-017-0466

Definitions

The following definitions apply to OAR 581-017-0465, 581-017-0469, 581-017-0473, 581-017-0477, 581-017-0481, 581-017-0485:

(1) "CTE Summer Youth Engagement Program Grant" means the grant established by section 1, Chapter 763, Oregon Law 2015 (Enrolled House Bill 3072).

(2) "High Demand" means having more than the median number of total (growth plus replacement) openings for statewide or a particular region.

(3) "High Wage" means a wage that is more than the all-industry, all-ownership median wage for statewide or a particular region.

(4) "Historically Underserved student" means an English language learner, a student of color, an economically disadvantaged student or a student with disabilities.

(5) "Industry Credential" means certification that can lead to a high wage and high demand job and has been approved by the Department of Education.

(6) "Program of Study" means a sequence of courses, aligned to industry standards at the secondary and post-secondary level, that integrates technical and career skill proficiencies with academic content and has been approved by the Oregon Department of Education.

Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Stat. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Hist.: ODE 21-2016, f. & cert. ef. 3-22-16

581-017-0470

Establishment

The purpose of the CTE Summer Youth Engagement Program is to provide middle and high school students with access to state-of-the-art facilities, training, and mentoring that may not be available in their local community, and to encourage those students to pursue industry credentials in high wage and high demand fields.

Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Stat. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Hist.: ODE 21-2016, f. & cert. ef. 3-22-16

581-017-0474

Eligibility

(1) The following entities shall be eligible to receive a CTE Summer Youth Engagement Program Grant:

(a) School districts;

(b) Education service districts (ESDs) as defined in ORS 334.003;

(c) Public schools;

(d) Public charter schools;

(e) Community colleges; and

(f) Public universities.

Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Stat. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Hist.: ODE 21-2016, f. & cert. ef. 3-22-16

581-017-0478

Criteria

(1) The Oregon Department of Education shall establish a request for proposal, application, or direct grant solicitation and approval process to be conducted each biennium for which CTE Summer Youth Engagement Program Grant funds are available.

(2) Requests for funding shall be evaluated and scored based on the following criteria:

(a) Summer programs serving students in grades 7 and 8 must:

(A) Focus on exploration of careers that include high wage and high demand occupations;

(B) Expose students to related CTE programs of study available at a student's future high school; and

(C) Include opportunities for students to interact with adults involved in related high wage and high demand occupations.

(b) Summer programs serving students who are in high school and have participated in a CTE course during the school year must:

(A) Focus on intensive CTE study addressing academic and technical attainment;

(B) Create opportunities for students to earn industry credentials or dual credit or both when appropriate;

(C) Align with CTE Programs of Study available in a student's high school;

(D) Include student interactions with related local businesses and industries; and

(E) Expose students to related educational opportunities through community colleges, universities, or apprenticeship programs.

(c) The Department of Education shall give priority to proposals that meet the minimum criteria and address the needs of historically underserved students.

(3) The Department of Education shall allocate funds for the grant program based on the evaluation of the grant application and the following considerations:

(a) Geographic location of districts to insure geographic diversity within the recipients of grant program funds throughout the state;

(b) Districts who have an achievement gap between subgroup populations; and

(c) Districts who have a high level of students in poverty.

Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Stat. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Hist.: ODE 21-2016, f. & cert. ef. 3-22-16

581-017-0482

Funding

(1) The Department of Education shall determine for each biennium the portion of the funds available for the CTE Summer Youth Engagement Program Grant.

(2) CTE Summer Youth Engagement Program Grant funds received by a grantee must be separately accounted for and may be used only to provide funding for the purposes described in the application of the grant recipient.

Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Stat. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Hist.: ODE 21-2016, f. & cert. ef. 3-22-16

581-017-0486

Reporting

(1) After being selected as a grantee but before receiving the allocation of CTE Summer Youth Engagement Program Grant funds, grant recipients must provide the Department of Education with the following:

(a) A risk management plan that addresses contact between minors and adults and the use of power tools and equipment; and

(b) A plan for recruiting and retaining historically underserved students.

(2) Recipients of the CTE Summer Youth Engagement Program Grant must report on the grant to the Department of Education. The report must include metrics developed by the Department of Education.

Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Stat. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

Hist.: ODE 21-2016, f. & cert. ef. 3-22-16

581-017-0550

Definitions

The following definitions apply to OAR 581-017-0550 to 581-017-0682:

(1) "Achievement gap" means the research-based gap in achievement that often exists between students who are economically disadvantaged, students learning English as a second language and students who are African American, Hispanic or Native American and their peers.

(2) "African American" means a person from African descent living in America and also means a person referred to in census data as "Black."

(3) "African American/Black Student Success Plan Grant" means the Grant established in OAR 581-017-0553 to implement ORS 329.841.

(4) "Community-based organization" means a nonprofit organization that is representative of a community or significant segments of a community, which is located within or in close proximity to the community it serves.

(5) "Culturally responsive" means the implicit use of the cultural knowledge, prior experiences, frames of reference, and performance styles of diverse students to make learning more appropriate and effective for them.

(6) "Disproportionate discipline" means disproportionate rates of suspensions and expulsions for African American/Black students compared to their white classmates "who commit similar infractions and who have similar discipline histories."

(7) "Non-profit organization" means:

(a) An organization established as a nonprofit organization under the laws of Oregon; and

(b) Qualifies as an exempt organization under section 501(c)(3) of the Internal Revenue Code as defined in ORS 314.011.

(8) "Opportunity gap" means the ways in which race, ethnicity, socioeconomic status, English proficiency, community wealth, familial situations, or other factors contribute to or perpetuate lower educational aspirations, achievement, and attainment for certain groups of students.

(9) "Plan student" means a student enrolled in early childhood through post-secondary education who is black or African American or a member of a student group that is not covered under an existing culturally specific statewide education plan.

Stat. Auth.: ORS 329.841

Stat. Implemented: ORS 329.841

Hist.: ODE 35-2016, f. & cert. ef. 6-15-16

581-017-0553

Establishment

(1) There is established the African American/Black Student Success Plan Grant to support early learning hubs, providers of early learning services, school districts, post-secondary institutions of education and community based organizations who are working to design, implement, improve, expand, or otherwise revise programs and services for African American and Black students. The programs and services to be provided under the grant will:

(a) Assist African American and Black students to develop a range of knowledge, skills, abilities and dispositions that will lead to successful student outcomes in educational achievement;

(b) Address issues such as attendance, chronic absenteeism and elementary, middle, high school and postsecondary transitions; and

(c) Will include a variety of supports including the involvement of parents and communities across the state.

(2) Subject to available funds, the Department of Education shall award up to four grants based on a detailed description of proposed programming or services. The programs or services may include:

(a) The scale-up of an existing program or service; and

(b) The implementation of a new program or service.

(3) The purpose of the grant program is to provide funds to applicants that can document an understanding of the unique needs of African American and Black students, and who have the potential to become exemplar programs and who create collaborative practices relating to:

(a) Promoting regular and consistent school attendance and active parent engagement to eliminate chronic absenteeism;

(b) Addressing parent and community engagement on the importance of the role of the parent offering training or professional development for parents, educators, and interested community members on closing the achievement gaps for African American and Black students; and

(c) Addressing early childhood to kindergarten, middle to high school and high school to post-secondary transitions for African American and Black students. Programs promote student engagement and literacy development and college and career readiness and transition to college and career.

Stat. Auth.: ORS 329.841

Stat. Implemented: ORS 329.841

Hist: ODE 35-2016, f. & cert. ef. 6-15-16

581-017-0556

Eligibility

(1) To be eligible to receive the African American/Black Student Success Grant, an organization must:

(a) Be an early learning hub, a provider of early learning services, a school district, an education service district, a post-secondary institution of education or a community based organization.

(b) For existing programs or services that are being scaled up, provide data to the Department of Education documenting that the majority of their students who are served through the programming or services by the organization are African American/Black.

(c) For new programs or services, provide information to the Department about how the program or services will serve African American/Black students.

(2) A single grant proposal may include more than one eligible applicant, but the fiscal agent must be one of the eligible applicants identified in subsection (1) of this rule.

Stat. Auth.: ORS 329.841

Stat. Implemented: ORS 329.841

Hist: ODE 35-2016, f. & cert. ef. 6-15-16

581-017-0559

Criteria

(1) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted for the African American/Black Student Success Plan for Grant funds. All proposals must comply with the requirements of the Department's Procurement process. Grants shall be awarded based on the following criteria:

(a) Ability of the applicant to identify how funds will be used to address school attendance and chronic absenteeism, Pre-K to 3rd grade, middle and high school, utilizing programs that create educational supports and developmental assets leading to continual and increased attendance for African American and Black students. In Pre-K programs, this is specific to increased attendance in early learning programs which foster success upon entering the K-12 education system. A critical examination of the negative impact of disproportionate rates of African American/Black students named in discipline behaviors leading to suspensions and expulsions is also a key component in this area;

(b) Ability of the applicant to demonstrate knowledge, experience, and expertise in addressing parent and community engagement to improve academic achievement and graduation rates for African American and Black students; and

(c) Ability of the applicant to increase student participation in summer school, improved academic preparation, transitions from early childhood to kindergarten, middle school to high school, high school to college and/or increase graduation rates and decreased dropout rates.

(3) The Department shall give priority to proposals that meet the minimum criteria and:

(a) Provide a sustainability plan to continue the program for at least two years after the grant funding has ended.

(b) The extent to which the applicant clearly documents its capacity to implement and carry out programming and services for addressing the needs of African American and Black student populations, including demonstrated intentions to work in a collaborative way with school districts or post-secondary institutions.

(4) The Department of Education shall allocate funds for the grant program based on the evaluation of the grant application and the following considerations:

(a) Geographic location of applicant to ensure geographic diversity within the recipients of grant program funds throughout the state;

(b) Applicants/organizations who have documented evidence of having programs or services which serve a primarily African American/Black student population;

(c) Applicants/organizations who have a high level of students who are economically disadvantaged; and

(d) Give preference to organizations that have demonstrated success in improving student outcomes for African American/Black students.

Stat. Auth.: ORS 329.841

Stat. Implemented: ORS 329.841

Hist: ODE 35-2016, f. & cert. ef. 6-15-16

581-017-0562

Funding

(1) Grantees shall submit a detailed budget narrative and complete a budget template for the program or service that being funded through the grant.

(2) Grantees shall use funds received for the current program scale-up and new program planning and implementation as outlined in the request for proposal.

(3) Grantees must be able to expend the funds for allowable purposes specified in the request for proposal within the grant timeline according to acceptable accounting procedures.

Stat. Auth.: ORS 329.841

Stat. Implemented: ORS 329.841

Hist: ODE 35-2016, f. & cert. ef. 6-15-16

581-017-0565

Reporting

The Oregon Department of Education shall provide to grant recipients a template for an interim and final grant report. Grantees are required to submit a final report prior to receiving their final request for funds.

Stat. Auth.: ORS 329.841

Stat. Implemented: ORS 329.841

Hist: ODE 35-2016, f. & cert. ef. 6-15-16

DIVISION 18

NETWORK OF QUALITY TEACHING AND LEARNING

581-018-0005

Definitions

The following definitions apply to Oregon Administrative Rules in division 18, chapter 581 that implement the Network of Quality Teaching and Learning:

(1) "40-40-20 goal" means the mission of Oregon's education system as described in ORS 351.009

(2) "Achievement gap" means the research based gap in achievement that often exists between students who are economically disadvantaged, students learning English as a second language, African American, Hispanic or Native American and their peers.

(3) "Network" means the Network of Quality Teaching and Learning established by chapter 661, Oregon Law 2013 (Enrolled House Bill 3233).

(4) "Students who are economically disadvantaged" means students who are eligible for free or reduced price school meals.

Stat. Auth.: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Stats. Implemented: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Hist.: ODE 16-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 30-2013, f. & cert. ef. 12-18-13

581-018-0010

Equity Lens

(1) The Department of Education will apply the Equity Lens adopted by the Chief Education Office when administering the net-

work including when determining resource allocation and awarding grants and contracts.

(2) Specifically the Department shall consider the following issues:

(a) Who are the racial or ethnic and underserved groups affected? What is the potential impact of the resource allocation and grant or contract award to these groups?

(b) Does the decision being made ignore or worsen existing disparities or produce other unintended consequences? What is the impact on eliminating the opportunity gap?

(c) How does the resource allocation or grant or contract award advance the 40-40-20 goal?

(d) What are the barriers to more equitable outcomes? (e.g., mandated, political, emotional, financial, programmatic or managerial)

(e) How has the Department intentionally involved stakeholders who are also members of the communities affected by the resource allocation or grant or contract? How does the Department validate its assessment in paragraphs (a), (b) and (c) of this subsection?

(f) How will the Department modify or enhance the grant or contract to ensure each learner and communities' individual and cultural needs are met?

(g) How is the Department collecting data on race, ethnicity, and native language relating to the grants and contracts?

(h) What is the Department's commitment to P-20 professional learning for equity? What resources is the Department allocating for training in cultural responsive instruction.

Stat. Auth.: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Stats. Implemented: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Hist.: ODE 16-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 30-2013, f. & cert. ef. 12-18-13; ODE 34-2016, f. & cert. ef. 5-17-16

581-018-0020

Timelines and Performance Measures

Recipients of network grant or contract funds shall meet timelines, performance measures and other requirements related to the accumulation and evaluation of data collected as required by the Chief Education Office and the Oregon Department of Education.

Stat. Auth.: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Stats. Implemented: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Hist.: ODE 16-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 30-2013, f. & cert. ef. 12-18-13; ODE 34-2016, f. & cert. ef. 5-17-16

581-018-0100

Definitions

The following definitions apply to 581-018-0100 to 581-018-0125:

(1) "Blueprints" means a description of the components of a school district's strategies for implementation and integration of the four areas: career pathways, evaluation processes, compensation models and enhanced professional development for teachers and administrators.

(2) "Career pathways" means descriptions of professional career achievement and advancement (e.g., Novice, Emerging Professional, Master Teacher) or specialized roles (e.g., Mentor Teacher, Master Teacher), and opportunities to increase professional responsibilities.

(3) "Compensation models" means alternative salary advancement systems based on a variety of elements aside from seniority (e.g., weighed systems based on professional involvement, increased expertise).

(4) "Design grants" means grants intended for districts or consortia of districts to create blueprints for implementation that integrate the four areas of: career pathways, evaluation processes, compensation models and enhanced professional development.

(5) "Enhanced professional development" means professional learning opportunities that are ongoing, collaborative in nature, and aligned to the needs of educators identified through the evaluation process and student data.

(6) "Evaluation processes" means an educator performance evaluation system based on collaboration, that includes, but is not limited to standards of professional practice, four-level rubrics, multiple measures of professional practice, professional responsi-

bilities and student learning and growth, an evaluation and growth cycle and professional learning aligned to student and educator performance data.

(7) "Implementation Grants" means grants intended for districts or consortia of districts to implement their blueprint designs.

Stat. Auth.: ORS 329.838

Stats. Implemented: ORS 329.838

Hist.: ODE 18-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 33-2013, f. & cert. ef. 12-18-13

581-018-0105

Eligibility

(1) The following shall be eligible to receive a School District Collaboration Grant:

(a) School districts;

(b) Consortium of school districts.

(2) To be eligible for a design grant:

(a) Districts must not have received a federal Teacher Incentive Fund (TIF) grant; and

(b) Districts must not be receiving CLASS grant dollars during the school year for which the funds received under the application for a design grant would be expended.

(3) To be eligible for an implementation grant:

(a) Districts must not have received a federal Teacher Incentive Fund (TIF) grant; and

(b) Districts must not have received three or more years of implementation funding from either the Creative Leadership Achieves Student Success (CLASS) or the District Collaboration Fund; and

(c) Districts must not be receiving CLASS grant dollars during the school year for which the funds received under the application for a design or implementation grant would be expended.

Stat. Auth.: ORS 329.838

Stats. Implemented: ORS 329.838

Hist.: ODE 18-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 33-2013, f. & cert. ef. 12-18-13

581-018-0110

Criteria

(1) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted each biennium for when District Implementation and Design Collaboration grant funds are available. The Department shall notify eligible applicants of the proposal process and the due dates, and make available necessary guidelines and application forms.

(2) All proposals must comply with the requirements of ORS 329.838 and ORS 342.950 and rules adopted to implement those laws. Grants shall be awarded based on whether the grant application identifies how the funds will be used to improve education outcomes identified by the Department of Education or set forth in ORS 351.009.

(3) Prior to applying for a grant, the school district must receive the approval to apply for the grant from:

(a) The exclusive bargaining representative for the teachers of the school districts, or if the teachers are not represented by an exclusive bargaining representative, from the teachers of the school districts;

(b) The chairperson of the school district board; and

(c) The superintendent of the school district.

(4) Districts shall establish a collaborative leadership team to oversee the design and implementation process. The collaborative leadership team shall include the exclusive bargaining representative for the teachers of the school district or, if the teachers are not represented by an exclusive bargaining representative, the teachers of the school district.

(5) Districts shall display readiness and eligibility for an implementation grant by submitting detailed blueprints, developed collaboratively by teachers, administrators, and the teacher bargaining unit, in the four required areas:

(a) Career pathways processes for teachers and administrators;

- (b) Evaluation processes for teachers and administrators;
- (c) Compensation models for teachers and administrators, and
- (d) Enhanced professional development opportunities for teachers and administrators.

(6) The Department of Education shall award design and implementation grants based on the evaluation of the district application, eligibility criteria, and the following considerations:

(a) Geographic location of districts to insure geographic diversity within the recipients of grant program funds throughout the state;

(b) Districts that have an achievement gap as defined in 581-018-0005;

(c) Districts that have a high level of economically disadvantaged students as defined in 581-018-0005.

Stat. Auth.: ORS 329.838

Stats. Implemented: ORS 329.838

Hist.: ODE 18-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 33-2013, f. & cert. ef. 12-18-13; ODE 18-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; ODE 9-2016, f. & cert. ef. 2-5-16; ODE 34-2016, f. & cert. ef. 5-17-16; ODE 49-2016, f. & cert. ef. 11-1-16

581-018-0115

Design Grant Funding

(1) The Department of Education shall determine for each fiscal year the portion of the funds available for the School District Collaboration Grant Program that will be distributed as design grants.

(2) Based on the review of grant applications, the Department may not award a design grant to each district that is less than \$20,000 or exceeds \$50,000.

Stat. Auth.: ORS 329.838

Stats. Implemented: ORS 329.838

Hist.: ODE 18-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 33-2013, f. & cert. ef. 12-18-13

581-018-0120

Implementation Grant Funding

(1) The Department of Education shall determine for each fiscal year the total amount available for distribution to school districts as implementation grants.

(2) The Department of Education shall determine the grant amount to be awarded to each district that is eligible to receive a grant based on the following formula:

Grant Amount = school district ADMw x (the total amount available for distribution for an implementation grant in a fiscal year through the School District Collaboration Grant Program / the total ADMw of the School Districts that receive an implementation grant for the fiscal year.

(3) Notwithstanding subsection (2) of this section, a school district may receive a grant for an amount that is 10 percent more than the amount calculated under subsection (2) of this section if the Department approves a school district's supplemental plan to design and implement new approaches to improve student achievement that are in addition to the approaches identified in OAR 581-015-0110(5) and that are research-based best practices.

(4) In addition to any amounts received under subsections (2) and (3), a school district that has an average daily membership of less than 1,500 may receive a supplemental amount of up to \$50,000 if:

(a) The supplemental amount is used for expenses incurred in relation to a grant manager who:

(A) Manages the use of a grant received under this paragraph;

(B) Supports the school district's committees related to the grant;

(C) Monitors and measures the implementation of new approaches funded by the grant;

(D) Ensures timely and accurate communications with educators in the school district;

(E) Completes all Department of Education requirements related to the grant; and

(F) Attends meetings and collaborates with other school districts; and

(b) The total of the implementation grant and the supplemental amount does not exceed \$150,000.

Stat. Auth.: ORS 329.838

Stats. Implemented: ORS 329.838

Hist.: ODE 18-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 33-2013, f. & cert. ef. 12-18-13; ODE 18-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; ODE 9-2016, f. & cert. ef. 2-5-16; ODE 49-2016, f. & cert. ef. 11-1-16

581-018-0125

Reporting

(1) Districts shall meet timelines, performance measures and other requirements related to the accumulation and evaluation of data collected as required by the Chief Education Office and the Oregon Department of Education.

(2) Districts shall submit interim and final grant reports describing progress toward grant requirements and goals as defined by the Department of Education.

(3) Districts shall share lessons learned and school district models on the design and implementation of the four blueprint areas.

(4) The Department of Education shall disseminate best practices from the grant districts to districts statewide.

Stat. Auth.: ORS 329.838

Stats. Implemented: ORS 329.838

Hist.: ODE 18-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 33-2013, f. & cert. ef. 12-18-13; ODE 18-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16; Administrative correction, 4-29-16; ODE 34-2016, f. & cert. ef. 5-17-16

581-018-0130

Definitions

The following definitions apply to Oregon Administrative Rules 581-018-0130 through 581-018-0151 unless the context requires otherwise:

(1) "Administrator's Present Position" means being assigned in the role as a principal or a superintendent.

(2) "Beginning Administrator" means a principal or superintendent who:

(a) Possesses an administrative license issued by the Teacher Standards and Practices Commission;

(b) Is employed as a principal or superintendent by a school district; and

(c) Has been assigned for fewer than two school years in the administrator's present position.

(3) "Beginning Teacher" means a teacher who:

(a) Possesses a teaching license issued by the Teacher Standards and Practices Commission;

(b) Is employed at least half time, primarily as a classroom teacher, by a school district; and

(c) Has taught fewer than two school years, as a licensed teacher in any public, private, or state-operated school.

(4) "Classroom Teachers" means all teachers who provide direct instruction to students.

(5) "District" means a school district, an education service district, a state-operated school, or any legally constituted combination of such districts.

(6) "Mentor" means an individual who:

(a) Is an acting or retired teacher, principal or superintendent;

(b) Has met established best practice and research-based criteria as defined by the State Board of Education by rule

(c) Possesses a teaching or administrative license issued by the Teacher Standards and Practices Commission;

(d) Has successfully served for five or more years as a licensed teacher, principal or superintendent in any public school; and

(e) Has been selected and trained as described in ORS 329.815.

(7) "Mentorship program" means a program provided by a mentor to a beginning teacher or administrator that includes, but is not limited to, direct classroom observation and consultation; assistance in instructional planning and preparation; support in implementation and delivery of classroom instruction; development of school leadership skills and other assistance intended to assist the beginning teacher or administrator to become a confident and competent professional educator who makes a positive impact on student learning.

(8) “Teacher” means a licensed employee of a common or union high school district, an employee of an education service district or a state-operated school who has direct responsibility for instruction, coordination of educational programs or supervision of teachers and who is compensated for services from public funds. “Teacher” does not include a school nurse as defined in ORS 342.455 or a person whose duties require an administrative certificate.

(9) “Mentoring” means a professional relationship between an educator and a skilled mentor. In a confidential and trusting partnership, the mentor supports the educator to transform practice through a process of reflection and inquiry. The goals of this collaborative and continuous work are: to accelerate instructional practice, ensure equitable learning for all students, retain effective educators, and empower educational leaders.

(10) “Culturally or Linguistically Diverse” means characteristics of a person, including:

- (a) Origins in any of the black racial groups of Africa but is not Hispanic;
 - (b) Hispanic in culture or origin, regardless of race;
 - (c) Origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands;
 - (d) Origins in any of the original peoples of North American, including American Indians or Alaskan Natives; or
 - (e) A first language that is not English.
- Stat. Auth.: ORS 326.051 & 329.795
 Stats. Implemented: ORS 329.790 - 329.820
 Hist.: EB 18-1988, f. & cert. ef. 3-16-88; EB 9-1990, f. & cert. ef. 1-30-90;
 ODE 2-2008, f. & cert. ef. 1-25-08; Renumbered from 581-020-0065 by ODE 43-2014, f. & cert. ef. 12-4-14; Renumbered from 581-020-0065 by ODE 1-2015, f. & cert. ef. 1-26-15; ODE 13-2015(Temp); f. & cert. ef. 7-15-15 thru 1-10-16; ODE 24-2015, f. & cert. ef. 12-18-15

581-018-0133

Mentoring Program Standards

(1) Districts applying for an Oregon Beginning Teacher and Administrator Mentoring Program Grant shall align mentoring programs with the Mentoring Program Standards.

(2) Mentoring Program Standards describe the structures and functions, processes, and effective practices necessary for a quality program. Effective mentoring is foundational to a quality program. An essential element of a mentoring program is a professional mentor who understands and utilizes the skills, strategies and tools necessary for the continuous development of teachers and administrators.

(a) Program: Districts are committed to integrating and sustaining comprehensive mentor programs targeting quality teaching and learning that aligns with other district and state initiatives and goals.

(A) Program Administration, Collaboration, and Communication: Quality mentor programs provides structures to assure a cohesive system for mentoring that is supported at all levels. A Quality Mentor Program:

- (i) Has a designated leader with sufficient resources, authority, knowledge and experience to guide program implementation and accountability.
 - (ii) Includes system-wide leadership.
 - (iii) Involves collaboration and coordination among program leaders and stakeholders to ensure that program goals and practices align with teacher preparation programs, educator professional learning, evaluation systems and other P-20 initiatives.
 - (iv) Develops and maintains structures and systems to promote two-way communication and stakeholder involvement.
- (B) Leadership Engagement: Quality mentor programs require involved and informed leaders. Leaders in a Quality Mentor Program:
- (i) Provide resources and conditions required to promote and improve teacher and administrator success.
 - (ii) Engage in professional learning in how best to support teachers and administrators.
 - (iii) Collaborate and coordinate with other mentor program leaders across the state.

(C) Program Assessment and Evaluation: Quality mentor programs collect data to evaluate and improve program effectiveness. A Quality Mentor Program:

(i) Purposefully and systematically collects data, using multiple measures, to demonstrate implementation, impact, and areas for continuous improvement.

(ii) Continuously and systematically shares evaluation findings with stakeholders to inform decision-making and accountability.

(b) Processes: Mentoring processes are characterized by collaborative cycles of inquiry that provide for standards based feedback loops leading to measurable outcomes and practices for the success of all students.

(A) Roles and Responsibilities: A quality mentor program carefully selects and assigns participants and clearly defines roles. A Quality Mentor Program:

(i) Has a formal, rigorous and timely process for recruiting and selecting mentors based on criteria consistent with the roles and responsibilities of mentoring.

(ii) Defines and communicates mentor roles and responsibilities that are focused on the continuous development of teacher and administrator practice.

(iii) Utilizes a standards based system of ongoing assessment for mentor growth and accountability.

(B) Professional Learning: Quality mentor programs expand the knowledge and refine the practice of mentors and mentees through a collaborative process, supported by research. A Quality Mentor Program:

(i) Establishes learning communities engaged in professional learning, problem-solving, and evidenced based collaborative inquiry for mentors, as well as teacher and administrator mentees.

(ii) Ensures participants apply new learning to mentoring practice through engaging in goal-setting and reflection, implementing inquiry action plans, and analyzing data.

(iii) Facilitates professional learning that is guided by research, standards, local priorities and the developmental needs of mentors, as well as teacher and administrator mentees.

(C) Teacher and Administrator Assessment: Quality mentor programs utilize a data based cycle of inquiry to assess effective instructional and leadership practices. A Quality Mentor Program:

(i) Includes self-reflection, goal setting, observations, and formative assessments.

(ii) Is designed to accelerate educator effectiveness to ensure that every student is ready for college, careers and engaged citizenship.

(iii) Includes multiple sources of evidence to assess teacher and administrator mentees’ strengths and areas for growth and guide professional learning.

(c) Professional Practice:

(A) Instructional and Leadership Practices: Quality mentor programs accelerate the professional practice of beginning educators to positively impact student achievement. A Quality Mentor Program:

(i) Fosters self-reflection among teacher and administrator mentees to accelerate growth based on Oregon professional teaching or administrative standards.

(ii) Supports knowledge of curriculum standards, grade level and subject standards, pedagogy and performance levels for students.

(iii) Strengthens the ability of teacher and administrator mentees to analyze data in order to plan and differentiate instruction and programs.

(iv) Develops teacher and administrator mentees’ knowledge and application of the physical, cognitive, emotional and social well-being of students.

(v) Supports collaborative partnerships among educators, families, and the community.

(B) Equity, Cultural Competence and Universal Access: Quality mentor programs foster and develop culturally competent educators. A Quality Mentor Program:

(i) Supports teachers and administrator mentees' knowledge of the cultural, gender, racial, ethnic, and socioeconomic characteristics of their classrooms, schools and community.

(ii) Expands teachers and administrators' self-awareness of cultural competency and how that impacts their learning, teaching and leadership.

(iii) Demonstrates a commitment to equity by developing culturally inclusive practices in teachers and administrators.

Stat. Auth.: ORS 326.051 & 329.795

Stats. Implemented: ORS 329.790 - 329.820

Hist.: ODE 43-2014, f. & cert. ef. 12-4-14

581-018-0136

Pertaining to Beginning Teacher and Administrator Mentorship Program

The State Board of Education shall establish a beginning teacher and administrator mentorship program to provide eligible beginning teachers and administrators in the state with continued and sustained support from a formally assigned mentor teacher or administrator. The legislative assembly finds that:

(1) The quality of teaching and administration in the public schools is of vital importance to the future of Oregon;

(2) Oregon has a special interest in insuring that the induction of beginning teachers and administrators into their profession enhances their professional growth and development by making a positive impact on student learning for all students, to help close the achievement gap;

(3) The formal assignment of mentors who have demonstrated the appropriate subject matter knowledge and teaching and administrative skills will substantially improve the induction and professional growth of beginning teachers in the state as well as provide mentors with additional and valuable opportunities to enhance their own professional growth;

(4) Teachers and administrators who receive research-based, relevant mentoring produce students with a higher rate of achievement;

(5) School districts that have teacher mentoring have a higher rate of retention among teachers; and

(6) Administrators who receive mentoring improve their effectiveness as administrators and continue to improve throughout their careers.

Stat. Auth.: ORS 326.051 & 329.795

Stats. Implemented: ORS 329.790 - 329.820

Hist.: EB 18-1988, f. & cert. ef. 3-16-88; EB 9-1990, f. & cert. ef. 1-30-90; ODE 2-2008, f. & cert. ef. 1-25-08; Renumbered from 581-020-0060 by ODE 43-2014, f. & cert. ef. 12-4-14

581-018-0139

The Selection, Nature and Extent of Duties of Mentor Teachers

(1) The selection, nature and extent of duties of mentors shall be determined by the school district based on the requirements of ORS 329.790 to 329.820.

(2) No teacher, principal or superintendent shall be designated as a mentor unless willing to perform in that role;

(3) No mentor shall participate in the evaluation of a beginning teacher or administrator for purposes of actions taken under ORS 342.805 to 342.937;

(4) Written or other reports of a mentor regarding a beginning teacher or administrator may not be used in the evaluation of beginning teacher or administrator.

(5) Each mentor shall complete successfully a training provided by the Oregon Department of Education or approved according to criteria established by the Department of Education while participating in the beginning teacher and administrator mentorship program;

(6) The grant received for each beginning teacher or administrator may be used by the district to compensate mentors or to compensate other individuals assigned duties to provide release time for teachers, principals or superintendents acting as mentors.

Stat. Auth.: ORS 326.051 & 329.795

Stats. Implemented: ORS 329.790 - 329.820

Hist.: EB 18-1988, f. & cert. ef. 3-16-88; EB 9-1990, f. & cert. ef. 1-30-90; ODE 3-2008, f. & cert. ef. 1-25-08; Renumbered from 581-020-0085 by ODE 43-2014, f. & cert. ef. 12-4-14

581-018-0142

Eligibility

(1) There is established a beginning teacher and administrator mentorship program to provide eligible beginning teachers and administrators in this state with a continued and sustained mentorship program from a formally assigned mentor.

(2) Any district is eligible to apply to participate in the beginning teacher and administrator mentorship program. Grants may be subject to application, evaluation, approval by the Oregon Department of Education, and the legislative appropriation of funds.

(3) A school district may enter into a partnership with another school district, an institution of higher education, an education service district or another organization to operate jointly a beginning teacher and administrator support program if:

(a) All moneys received as grants-in-aid for the mentorship program are administered by the participating school district to provide direct services to beginning teachers and administrators; and

(b) All other requirements of ORS 329.790 to 329.820 are met.

(4) The awarding of grants under OAR 581-020-0080 is subject to the availability of funds appropriated therefore.

Stat. Auth.: ORS 326.051 & 329.795

Stats. Implemented: ORS 329.790 - 329.820

Hist.: EB 18-1988, f. & cert. ef. 3-16-88; EB 9-1990, f. & cert. ef. 1-30-90; ODE 2-2008, f. & cert. ef. 1-25-08; Renumbered from 581-020-0070 by ODE 43-2014, f. & cert. ef. 12-4-14

581-018-0145

Grant Application

Each district that wishes to participate in the beginning teacher and administrator mentorship program shall submit a formal application to the Department of Education. The application shall include:

(1) A description of the priorities to be addressed by moneys received by a school district for the mentorship program, including:

(a) Efforts to increase the number of culturally and linguistically diverse educators hired; and

(b) Efforts to close the cultural and linguistic gap between the demographics of the district's teachers and administrators with the demographics of the students served by the school district.

(2) The names of all eligible beginning teachers and administrators employed by the district and a description of their assignments and;

(23) A description of the proposed mentorship program, which must provide at least 75-90 hours of frequent contact, totaling a minimum of 90 hours between mentors and beginning teachers and administrators, throughout the school year.

(3) A description of the research based training that will be provided to mentors and beginning teachers and administrators.

(4) A description of how the training will build relationships of trust and mutual collaboration with beginning teachers and administrators.

(5) A description of the professional development mentors will receive before the school year begins and throughout the school year.

(6) A school district shall certify in the application that no eligible beginning professional educators are or may be under a conditional license, except as provided for by rules of the Teacher Standards and Practices Commission.

Stat. Auth.: ORS 326.051 & 329.795

Stats. Implemented: ORS 329.790 - 329.820

Hist.: EB 18-1988, f. & cert. ef. 3-16-88; EB 9-1990, f. & cert. ef. 1-30-90; ODE 2-2008, f. & cert. ef. 1-25-08; Renumbered from 581-020-0075 by ODE 43-2014, f. & cert. ef. 12-4-14; ODE 13-2015(Temp); f. & cert. ef. 7-15-15 thru 1-10-16; ODE 24-2015, f. & cert. ef. 12-18-15

581-018-0148

Funding

(1) Subject to ORS 291.230 to 291.260, the Department of Education shall distribute grants-in-aid to qualifying school districts to offset the costs of beginning teacher and administrator mentorship programs. A qualifying district shall receive annually an amount

that is aligned with evidence-based best practices for beginning teachers and administrators approved for support.

(2) If the funds are insufficient for all eligible proposals, the Department of Education shall award grants on a competitive basis taking into consideration:

(a) Successful or promising efforts to increase the number of culturally and linguistically diverse educators hired; and

(b) Closing the cultural and linguistic gap between demographics of the district's teachers and administrators and the demographics of students served by of the school district; and

(3) Whether the school district is a small school district or serves a rural community, geographic and demographic diversity.

Stat. Auth.: ORS 326.051 & 329.795

Stats. Implemented: ORS 329.790 - 329.820

Hist.: EB 18-1988, f. & cert. ef. 3-16-88; EB 36-1988, f. & cert. ef. 8-5-88; EB 9-1990, f. & cert. ef. 1-30-90; EB 25-1990(Temp), f. & cert. ef. 5-18-90; ODE 2-2008, f. & cert. ef. 1-25-08; Renumbered from 581-020-0080 by ODE 43-2014, f. & cert. ef. 12-4-14; Renumbered from 581-020-0080 by ODE 1-2015, f. & cert. ef. 1-26-15; ODE 13-2015(Temp); f. & cert. ef. 7-15-15 thru 1-10-16; ODE 24-2015, f. & cert. ef. 12-18-15

581-018-0151

Violation and Penalty

A district that is determined by the Department of Education to be in violation of one or more of the requirements of OAR 581-020-0060 through 581-020-0085 may be required to refund all grants-in-aid moneys distributed under 581-020-0080. The amount of penalty shall be determined by the State Board of Education.

Stat. Auth.: ORS 326.051 & 329.795

Stats. Implemented: ORS 329.790 - 329.820

Hist.: EB 18-1988, f. & cert. ef. 3-16-88; ODE 3-2008, f. & cert. ef. 1-25-08; Renumbered from 581-020-0090 by ODE 43-2014, f. & cert. ef. 12-4-14

581-018-0200

Definitions

The following definitions apply to OAR 581-018-0200 to 581-018-0225:

(1) "Dual-Language/Two-Way Bilingual Grant" means the Grant established in OAR 581-018-0205 to implement section 1(3)(f), chapter 661, Oregon Laws 2013 (Enrolled House Bill 3233).

(2) "Dual-Language" means instruction in English and a targeted language.

(3) "Two-Way Bilingual" means two-way programs that have the demographics to invite native-English-speaking students to join their bilingual and English Language Learner peers in an integrated bilingual classroom.

Stat. Auth.: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Stats. Implemented: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Hist.: ODE 17-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 32-2013, f. & cert. ef. 12-18-13

581-018-0205

Establishment

(1) There is established the Dual-Language/Two-Way Bilingual Grant to support school districts and public charter schools to design, implement and improve dual language/two-way bilingual programs. The programs assist students in becoming academically proficient in two languages by providing research based enrichment schooling that closes the academic achievement gap in English and continues to develop a student's first language.

(2) Subject to available funds, the grants will be awarded for three years and in three phases:

(a) Planning phase.

(b) Implementation phase.

(c) Program evaluation phase.

Stat. Auth.: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Stats. Implemented: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Hist.: ODE 17-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 32-2013, f. & cert. ef. 12-18-13

581-018-0210

Eligibility

(1) The following entities shall be eligible to receive the Dual-Language/Two-Way Bilingual Grant:

(a) School districts;

(b) Public charter schools; and

(c) Consortium of school districts, public charter schools, non-profit organizations or post-secondary institutions. Each consortium must have at least one school district or public charter school as a member.

(2) A single grant proposal may include more than one eligible applicant, but the fiscal agent must be one of the eligible applicants identified in subsection (1)(a) or (b) of this rule.

Stat. Auth.: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Stats. Implemented: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Hist.: ODE 17-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 32-2013, f. & cert. ef. 12-18-13

581-018-0215

Criteria

(1) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted each biennium for which the Dual-Language/Two-Way Bilingual grant funds are available. All proposals must comply with the requirements of section 1, chapter 661, Oregon Laws 2013 (Enrolled House Bill 3233) and rules adopted to implement that section.

(2) Grants shall be awarded based on the following criteria:

(a) Whether the grant application identifies how the funds will be used to reach the 40-40-20 goal and improve education outcomes.

(b) Whether the grant application demonstrates school district or public charter school support, commitment and readiness to design a Dual Language/Two-Way Bilingual Grant program.

(3) The Department shall give priority to proposals that meet the minimum criteria and:

(a) Provide a sustainability plan to continue the program for at least two additional years after the third year of the grant.

(b) The extent to which the applicant clearly documents its capacity to implement and carry out the Dual-Language/Two-Way Bilingual program, including demonstrated intentions to work in a collaborative way with other grantees.

(4) The Department of Education shall allocate funds for the grant program based on the evaluation of the grant application and the following considerations:

(a) Geographic location of district to insure geographic diversity within the recipients of grant program funds throughout the state;

(b) Districts who have achievement gap between subgroup populations;

(c) Districts who have a high level of students who are economically disadvantaged; and

(d) Give preference to entities that have demonstrated success in improving student outcomes.

Stat. Auth.: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Stats. Implemented: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Hist.: ODE 17-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 32-2013, f. & cert. ef. 12-18-13; ODE 34-2016, f. & cert. ef. 5-17-16

581-018-0220

Funding

(1) Each grantee may receive up to \$120,000 which shall be awarded as follows:

(a) 25 percent of the grant amount in year one for the planning phase.

(b) 50 percent of the grant amount in year two for the implementation phase.

(c) 25 percent of the grant amount in year two for year three for the program evaluation phase.

(2) Grantees shall use funds received for the planning phase to engage administrators, teachers, parents and the community in the planning of the program with a focus on building school and school district capacity to sustain efforts.

(3) Grantees must be able to expend the funds for allowable purposes specified in the request for proposal within the grant timeline according to acceptable accounting procedures.

Stat. Auth.: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Chapter 581 Oregon Department of Education

Stats. Implemented: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)
Hist.: ODE 17-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 32-2013, f. & cert. ef. 12-18-13

581-018-0225

Reporting

The Oregon Department of Education shall provide to grant recipients a template for an interim and final grant report. Grantees are required to submit a final report prior to receiving their final request for funds.

Stat. Auth.: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)
Stats. Implemented: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)
Hist.: ODE 17-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 32-2013, f. & cert. ef. 12-18-13

581-018-0250

Definitions

The following definitions apply to OAR 581-018-0205 to 581-018-0275:

(1) "Achievement gap" means the research-based gap in achievement that often exists between students who are economically disadvantaged, students learning English as a second language and students who are African American, Hispanic or Native American and their peers.

(2) "African American" means persons from African descent living in America; also referred to in census data as "Black."

(3) "Closing the Achievement Gap for African American Students Grant" means the Grant established in OAR 581-018-0205 to implement section 1(3)(f), chapter 661, Oregon Laws 2013 (Enrolled House Bill 3233).

(4) "Non-profit organization" means:

(a) An organization established as a nonprofit organization under the laws of Oregon; and

(b) Qualifies as an exempt organization under section 501(c)(3) of the Internal Revenue Code as defined in ORS 314.011.

Stat. Auth.: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)
Stats. Implemented: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)
Hist.: ODE 24-2013(Temp), f. & cert. ef. 10-18-13 thru 4-16-14; ODE 34-2013, f. & cert. ef. 12-18-13

581-018-0255

Establishment

(1) There is established the Closing the Achievement Gap for African American Students Grant to support nonprofit organizations who are working to design, implement, improve, expand, or otherwise revise programming and services for African American students. The programs and services assist African American students by offering unique opportunities to make strong home, school, and community connections in an effort to increase academic achievement and personal well-being. Research suggests that community organizations are positioned to provide targeted support to learners who are sometimes neglected in traditional school systems.

(2) Subject to available funds, the grants will be awarded for one year based on a detailed description of proposed programming or services. This can include but is not limited to:

(a) Planning phase.

(b) Implementation phase.

(c) Program evaluation phase.

(3) The purpose of the grant program is to provide funds to non-profit organizations that understand the unique needs of African American students, who have the potential to become exemplar programs and who can create collaborative practices around:

(a) Strengthening ties between home, school, and community;

(b) Creating space for active parent participation;

(c) Innovative programming that focuses on closing achievement gaps for African American students;

(d) Training or professional development for parents, educators, and interested community entities on closing achievement gaps for African American students;

(e) Literacy initiatives for closing achievement gaps for African American students; and

(f) College and career readiness and transition to college or career.

Stat. Auth.: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)
Stats. Implemented: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)
Hist.: ODE 24-2013(Temp), f. & cert. ef. 10-18-13 thru 4-16-14; ODE 34-2013, f. & cert. ef. 12-18-13

581-018-0260

Eligibility

(1) To be eligible to receive the Closing the Achievement Gap for African American Students Grant an organization must:

(a) Be a non-profit organizations; and

(b) Provide data to the Department of Education documenting that the majority of the students served through programming and resources by the organization are African American.

(2) A single grant proposal may include more than one eligible applicant, but the fiscal agent must be one of the eligible applicants identified in subsection (1) of this rule.

Stat. Auth.: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)
Stats. Implemented: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)
Hist.: ODE 24-2013(Temp), f. & cert. ef. 10-18-13 thru 4-16-14; ODE 34-2013, f. & cert. ef. 12-18-13

581-018-0265

Criteria

(1) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted for the Closing the Achievement Gap for African American Students Grant funds. All proposals must comply with the requirements of section 1, chapter 661, Oregon Laws 2013 (Enrolled House Bill 3233) and rules adopted to implement that section.

(2) Grants shall be awarded based on the following criteria:

(a) Whether the grant application identifies how the funds will be used to reach the 40-40-20 goal and improve education outcomes for African American students as identified by the Chief Education Office Equity Lens document.

(b) Whether the grant applicant demonstrates support, commitment and readiness to design or revise programming specifically for African American students.

(3) The Department shall give priority to proposals that meet the minimum criteria and:

(a) Provide a sustainability plan to continue the program for at least two years after the grant funding has ended.

(b) The extent to which the applicant clearly documents its capacity to implement and carry out programming and services for closing the achievement gap for African American student populations, including demonstrated intentions to work in a collaborative way with school districts, other non-profits or post-secondary institutions.

(4) The Department of Education shall allocate funds for the grant program based on the evaluation of the grant application and the following considerations:

(a) Geographic location of the non-profit organization to insure geographic diversity within the recipients of grant program funds throughout the state;

(b) Organizations who have documented evidence of serving a primarily African American student population;

(c) Organizations who have a high level of students who are economically disadvantaged; and

(d) Give preference to entities that have demonstrated success in improving student outcomes.

Stat. Auth.: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)
Stats. Implemented: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)
Hist.: ODE 24-2013(Temp), f. & cert. ef. 10-18-13 thru 4-16-14; ODE 34-2013, f. & cert. ef. 12-18-13; ODE 34-2016, f. & cert. ef. 5-17-16

581-018-0270

Funding

(1) Each grantee may receive up to \$100,000 which shall be awarded during the following phases based on a detailed budget narrative and budget template:

(a) Planning phase.

(b) Implementation phase.

(c) Evaluation phase.

(2) Grantees shall use funds received for the planning, implementation, and evaluation phases of the grant for activities outlined in the request for proposal.

(3) Grantees must be able to expend the funds for allowable purposes specified in the request for proposal within the grant timeline according to acceptable accounting procedures.

Stat. Auth.: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Stats. Implemented: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Hist.: ODE 24-2013(Temp), f. & cert. ef. 10-18-13 thru 4-16-14; ODE 34-2013, f. & cert. ef. 12-18-13

581-018-0275

Reporting

The Oregon Department of Education shall provide to grant recipients a template for an interim and final grant report. Grantees are required to submit a final report prior to receiving their final request for funds.

Stat. Auth.: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Stats. Implemented: 2013 OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Hist.: ODE 24-2013(Temp), f. & cert. ef. 10-18-13 thru 4-16-14; ODE 34-2013, f. & cert. ef. 12-18-13

581-018-0300

Definitions

The following definitions apply to 581-018-0300 to 581-018-0325:

(1) “Common Core State Standards (CCSS)” means a coherent progression of learning expectations in English language arts and mathematics designed to prepare K–12 students for college and career success. CCSS were adopted by the Oregon State Board of Education in 2010.

(2) “Educator Effectiveness” means expectations for educators defined by the Core Teaching Standards established in Senate Bill 290 to improve student academic growth. Teacher effectiveness is defined by the Model Core Teaching Standards and administrator effectiveness is defined by the Oregon Educational Leadership/Administrator Standards adopted by the State Board of Education in 2011.

(3) “Oregon Framework for Teacher and Administrator Evaluation and Support Systems” means the state guidelines developed by the Oregon Department of Education and stakeholders that incorporates the requirements of Senate Bill 290 and the federal requirements of the Elementary and Secondary Education Act (ESEA) Flexibility Waiver for educator evaluation and support systems.

(4) “Regional Peer Review Panels” means the process required in Oregon’s ESEA Flexibility Waiver in which the Department of Education will ensure that each district is fully implementing educator evaluation systems and providing feedback and support to districts.

(5) “Achievement gap” means the gap in achievement that often exists between students who are economically disadvantaged, students learning English as a second language, African American, Hispanic or Native American and their peers.

(6) “Network” means the Network of Quality Teaching and Learning established by chapter 661, Oregon Law 2013 (Enrolled House Bill 3233).

Stat. Auth.: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)

Stats. Implemented: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)

Hist.: ODE 22-2013(Temp), f. & cert. ef. 9-27-13 thru 3-26-14; ODE 4-2014, f. & cert. ef. 2-19-14

581-018-0305

Establishment

(1) The Educator Effectiveness and CCSS Implementation Grant program is established as part of the Network for Quality Teaching and Learning.

(2) The purposes of the grants are to:

(a) Build each school district’s capacity to support full implementation of the Oregon Framework for Teacher and Administrator Evaluation and Support Systems and the Common Core State Standards.

(b) Enhance school district leadership capacity to plan and support high quality professional learning.

(c) Ensure coherence and integration of policies to improve educator practice and student learning.

(d) Establish and support regional Peer Review Panels to:

(A) Ensure that districts are fully implementing valid and reliable educator evaluation and support systems and CCSS including for English Learners, students with disabilities, and low-achieving students; and

(B) Provide high quality feedback and support to districts.

(C) Districts must present their evaluation and support system to a Peer Review Panel by July 1, 2015.

Stat. Auth.: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)

Stats. Implemented: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)

Hist.: ODE 22-2013(Temp), f. & cert. ef. 9-27-13 thru 3-26-14; ODE 4-2014, f. & cert. ef. 2-19-14

581-018-0310

Eligibility

The Department of Education shall allocate funds for Educator Effectiveness and CCSS Implementation to:

(1) School districts or consortia of small districts to support an Education Facilitator Team and district implementation.

(2) Non-profit organizations and postsecondary institutions for the purpose of supporting implementation.

Stat. Auth.: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)

Stats. Implemented: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)

Hist.: ODE 22-2013(Temp), f. & cert. ef. 9-27-13 thru 3-26-14; ODE 4-2014, f. & cert. ef. 2-19-14

581-018-0315

Criteria

(1) Each school district or a consortium of small school districts must establish a collaborative Professional Learning Team consisting of teachers and building/district administrators to support district-wide implementation of the CCSS and the Oregon Framework for Teacher and Administrator Evaluation and Support Systems. District teams must take into consideration the needs of all students in their district, including students with disabilities, English learners, and low-achieving students and closing the achievement gap. District Professional Learning Teams will:

(a) Attend Educator Effectiveness-CCSS Professional Learning Conferences provided by the Department.

(b) Facilitate an assessment of the district’s professional learning needs for implementation of Educator Effectiveness and CCSS.

(c) Facilitate professional learning within the district.

(d) Serve as a liaison to the Department to disseminate information and inform policy.

(2) During the 2014–15 school year, each school district shall present their educator evaluation and support system to a regional Peer Review Panel. The Department shall establish and disseminate criteria for the peer review process to school districts during the 2013-14 school year.

Stat. Auth.: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)

Stats. Implemented: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)

Hist.: ODE 22-2013(Temp), f. & cert. ef. 9-27-13 thru 3-26-14; ODE 4-2014, f. & cert. ef. 2-19-14

581-018-0320

Grant Funding

(1) The Department shall allocate funds to school districts or consortia of small school districts to establish Professional Learning Teams as described in 581-018-0315 and provide professional learning to support implementation of Educator Effectiveness and CCSS.

(2) Each school district that participates in the Educator Effectiveness-CCSS Professional Learning Conferences will be awarded a non-competitive grant based on ADMw and district needs.

(3) The Department of Education shall facilitate statewide and regional networking among districts and post-secondary institutions to promote collaborative learning and sharing of best practices.

(4) The Department of Education and school districts may contract with entities on the master contractor list to provide professional learning and technical assistance to support implementation in districts.

(5) Each school district that participates in the Educator Effectiveness-CCSS Professional Learning Conferences will be awarded a non-competitive grant based on ADMw and district needs.

(6) The Department shall facilitate statewide and regional networking among districts and post-secondary institutions to promote collaborative learning and sharing of best practices.

(7) The Department and school districts may contract with entities on the master contractor list to provide professional learning and technical assistance to support implementation in districts.

Stat. Auth.: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)
 Stats. Implemented: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)
 Hist.: ODE 22-2013(Temp), f. & cert. ef. 9-27-13 thru 3-26-14; ODE 4-2014, f. & cert. ef. 2-19-14

581-018-0325

Reporting

The Department of Education shall develop district reporting requirements for allocation of funds for Educator Effectiveness and CCSS implementation as required by the Chief Education Office and the Network for Quality Teaching and Learning.

Stat. Auth.: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)
 Stats. Implemented: Sect. 1, ch. 661, OL 2013 (Enrolled HB 3233)
 Hist.: ODE 22-2013(Temp), f. & cert. ef. 9-27-13 thru 3-26-14; ODE 4-2014, f. & cert. ef. 2-19-14; ODE 34-2016, f. & cert. ef. 5-17-16

581-018-0327

Definitions

The following definitions apply to 581-018-0327 to 581-018-0336

(1) “Common Core State Standards (CCSS)” means a coherent progression of learning expectations in English language arts and mathematics designed to prepare K–12 students for college and career success. CCSS were adopted by the Oregon State Board of Education in 2010.

(2) “Educator Effectiveness” means expectations for educators defined by the Core Teaching Standards established in Senate Bill 290 to improve student academic growth. Teacher effectiveness is defined by the Model Core Teaching Standards and administrator effectiveness is defined by the Oregon Educational Leadership/Administrator Standards adopted by the State Board of Education.

(3) “Network” means the Network of Quality Teaching and Learning established by ORS 342.950.

Stat. Auth.: ORS 342.950
 Stats. Implemented: ORS 342.950
 Hist.: ODE 5-2014(Temp), f. & cert. ef. 2-19-14 thru 8-18-14; ODE 28-2014, f. & cert. ef. 6-24-14

581-018-0330

Purpose and Eligibility

(1) The Oregon Department of Education shall establish a noncompetitive grant to support small/rural districts in implementing the Common Core State Standards and improving Educator Effectiveness.

(2) The Department shall determine eligible school districts for the grant based whether the district meets both the size and rural designation criteria.

(3) The Oregon Department of Education shall determine each biennium when the Small/Rural Grant Funds are available and which school districts are eligible to receive funds. The Department shall notify eligible districts of the application process and the due dates, and make available necessary guidelines and application forms.

(4) The Department shall distribute funds to eligible districts based on the following rural and size designation:

(a) Rural Designation:

(A) “County Designation” means a county designated by the US Census Bureau as either Rural, Micropolitan or Metropolitan.

(B) “Rural” means a district designated by the US Census Bureau as being located outside of an city or its urban fringe area for statistical purposes.

(C) “District Designation” means the label assigned to the district depending the county it is located in where it is defined as Rural (e.g. Micropolitan county-rural).

(b) Size Designation:

(A) “Very Small District” means a district whose ADMr is 1–499.

(B) “Small District” means a district whose ADMr is 500–1,000.

(C) “Mid-Size District” means a district whose ADMr is 1,001–2,200.

Stat. Auth.: ORS 342.950
 Stats. Implemented: ORS 342.950
 Hist.: ODE 5-2014(Temp), f. & cert. ef. 2-19-14 thru 8-18-14; ODE 28-2014, f. & cert. ef. 6-24-14

581-018-0333

Funding

The Department of Education shall determine the amount of funds available to an eligible district based on the district’s size and rural county designation.

Stat. Auth.: ORS 342.950
 Stats. Implemented: ORS 342.950
 Hist.: ODE 5-2014(Temp), f. & cert. ef. 2-19-14 thru 8-18-14; ODE 28-2014, f. & cert. ef. 6-24-14

581-018-0336

Reporting

(1) Districts shall meet timelines, performance measures and other requirements related to the accumulation and evaluation of data collected as required by the Chief Education Office and the Oregon Department of Education.

(2) Districts shall submit interim and final grant reports describing progress toward grant requirements and goals as defined by the Department of Education.

Stat. Auth.: ORS 342.950
 Stats. Implemented: ORS 342.950
 Hist.: ODE 5-2014(Temp), f. & cert. ef. 2-19-14 thru 8-18-14; ODE 28-2014, f. & cert. ef. 6-24-14; ODE 34-2016, f. & cert. ef. 5-17-16

581-018-0381

Definitions

The following definitions apply to OAR 581-018-0380 to 581-018-0399:

(1) “Culturally and/or Linguistically Diverse” means individuals who are non-White, who are not native English speakers, and who are Hispanic.

(2) “Culturally Responsive (ness)” means using the cultural knowledge, prior experiences, and performance styles of diverse individuals to make learning and experiences more appropriate and effective for them; it teaches to and through the strengths of these individuals. (Adapted from Gay, 2000).

(3) “Minority” means a person who is:

(a) A person having origins in any of the black racial groups of Africa but who is not Hispanic;

(b) A person of Hispanic culture or origin;

(c) A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands;

(d) An American Indian or Alaskan Native having origins in any of the original peoples of North America; or

(e) A person whose first language is not English.

(4) “Oregon Minority Educator Retention Grant” means the Grant established in OAR 581-018-0285 to implement section 1(3)(f), chapter 661, Oregon Laws 2013 (Enrolled House Bill 3233).

(5) “Retention” means the active, purposeful process of establishing effective and efficient systems that maintain the targeted recruitment population in the teaching profession.

Stat. Auth.: OL Ch. 661, Sec. 1 (Enrolled HB 3233)
 Stat. Implemented: OL Ch. 661, Sec. 1 (Enrolled HB 3233)
 Hist.: ODE 27-2014, f. & cert. ef. 6-24-14

581-018-0386

Establishment

(1) There is established the Oregon Minority Educator Retention Grant to support school districts who are working to design and implement retention models for educators who are culturally and/or linguistically diverse. Subject to available funds, the grants will be awarded for two years based on a detailed description of proposed programming or services. This can include but is not limited to:

- (a) Planning phase.
- (b) Implementation phase.

(2) The purpose of the grant program is to provide funds to school districts who can create collaborative processes around:

(a) Developing a culturally responsive interviewing model adaptable to a variety of settings in the P-20 structure using the OEIB Equity Lens to frame the work.

(b) Collaborating with local community based organizations to develop programs and events to create a welcoming environment for culturally and/or linguistically diverse new hires.

(c) Develop strong mentoring programs with particular attention to the needs of teachers who are culturally and/or linguistically diverse.

(d) Implement systems at the district level to check-in with staff who are culturally and/or linguistically diverse on the success of retention efforts and related needs.

(e) Create professional learning communities that support the development of district-wide cultural responsiveness.

Stat. Auth.: OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Stat. Implemented: OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Hist.: ODE 27-2014, f. & cert. ef. 6-24-14

581-018-0391

Eligibility

(1) To be eligible to receive the Oregon Minority Educator Retention Grant an applicant must be:

- (a) School districts.
- (b) Consortium of school districts and other entities (each consortium must include at least one school district as a member).

(2) A single grant proposal may include more than one eligible applicant, but the fiscal agent must be a school district.

Stat. Auth.: OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Stat. Implemented: OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Hist.: ODE 27-2014, f. & cert. ef. 6-24-14

581-018-0394

Criteria

(1) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted for the Oregon Minority Educator Retention Grant funds. All proposals must comply with the requirements of section 1, chapter 661, Oregon Laws 2013 (Enrolled House Bill 3233) and rules adopted to implement that section.

(2) Grants shall be awarded based on the following criteria:

(a) Whether the grant application identifies how the funds will be used to reach the targeted outcomes and intent of the Oregon Teacher Corps and the Oregon Minority Teacher Act.

(b) Whether the grant applicant demonstrates readiness, commitment, and support to design and implement models of retention for culturally and/or linguistically diverse educators.

(3) The Department shall give priority to proposals that meet the minimum criteria and:

(a) Provide a sustainability plan to continue the program for at least two years after the grant funding has ended.

(b) Consider research-based best practice around minority educator retention models.

(4) The Department of Education shall allocate funds for the grant program based on the evaluation of the grant application and the following considerations:

(a) Geographic location of the district to insure geographic diversity within the recipients of grant program funds throughout the state;

(b) Organizations who have documented evidence of creating and maintaining successful minority educator retention models;

(c) Organizations who have a high level of potential teacher candidates (applicant pool) from diverse cultural and linguistic backgrounds; and

(d) Give preference to entities that have demonstrated success in creating strong partnerships with community organizations to support outcomes.

Stat. Auth.: OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Stat. Implemented: OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Hist.: ODE 27-2014, f. & cert. ef. 6-24-14

581-018-0396

Funding

(1) Up to five school district grant awards will be given as follows: \$10,000 in Year One and \$25,000 in year two which shall be awarded during the following phases based on a detailed budget narrative and budget template:

- (a) Planning phase.
- (b) Implementation phase.

(2) Grantees shall use \$10,000 awards for design grants and \$25,000 awards to plan, develop, and pilot district models.

(3) Grantees must be able to expend the funds for allowable purposes specified in the request for proposal within the grant timeline according to acceptable accounting procedures.

Stat. Auth.: OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Stat. Implemented: OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Hist.: ODE 27-2014, f. & cert. ef. 6-24-14

581-018-0398

Reporting

The Oregon Department of Education shall provide to grant recipients a template for an interim and final grant report. Grantees are required to submit a final report prior to receiving their final request for funds.

Stat. Auth.: OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Stat. Implemented: OL Ch. 661, Sec. 1 (Enrolled HB 3233)

Hist.: ODE 27-2014, f. & cert. ef. 6-24-14

581-018-0401

Definitions

The following definitions apply to OAR 581-018-0401 to 581-018-0425:

(1) “Culturally and/or Linguistically Diverse” means individuals who are non-White, who are not native English speakers, and who are Hispanic.

(2) “Minority” means a person who is:

(a) A person having origins in any of the black racial groups of Africa but who is not Hispanic;

(b) A person of Hispanic culture or origin;

(c) A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands;

(d) An American Indian or Alaskan Native having origins in any of the original peoples of North America; or

(e) A person whose first language is not English.

(3) “Oregon Minority Educator Pipeline Models Grant” means the Grant established in OAR 581-018-0406 to implement section 1(3)(f), chapter 661, Oregon Laws 2013 (Enrolled House Bill 3233).

(4) “Pipeline Model” means the route through which future teachers are recruited, educated, hired, and retained in the education system.

(5) “Postsecondary Institution” means a:

(a) A community college operated under ORS chapter 341.

(b) The following public universities within the Oregon University System:

(A) University of Oregon.

(B) Oregon State University.

(C) Portland State University.

(D) Oregon Institute of Technology.

(E) Western Oregon University.

(F) Southern Oregon University.

(G) Eastern Oregon University.

(c) Oregon Health and Science University.

(d) An Oregon-based, generally accredited, not-for-profit institution of higher education.

(5) “Underrepresented” means populations in the United States who have been historically excluded from the same rights and privileges as the majority, White, culture. This applies to opportunity in education, business, and social aspects of society.

(6) “Recruitment” means the active, purposeful process of establishing effective and efficient systems that attract individuals to the teaching profession.

(7) “Retention” means the active, purposeful process of establishing effective and efficient systems that maintain the targeted recruitment population in the teaching profession.

Stat. Auth.: 2013 OL Ch. 661, Sec. 1 (Enrolled HB3233)

Stat. Implemented: 2013 OL Ch. 661, Sec. 1 (Enrolled HB3233)

Hist.: ODE 26-2014, f. & cert. ef. 6-24-14

581-018-0406

Establishment

(1) There is established the Oregon Minority Educator Pipeline Models Grant to support school districts and post-secondary institutions who are working to expand educator pipeline models that recruit and retain educators who are culturally and/or linguistically diverse. Subject to available funds, the grants will be awarded for two years based on a detailed description of proposed programming or services. This can include but is not limited to:

(a) Planning phase.

(b) Implementation phase.

(c) Program evaluation phase.

(2) The purpose of the grant program is to provide funds to school districts and post-secondary institutions who can create collaborative processes around:

(a) Developing a statewide program with interested partners that provides free and/or low cost advising and academic supports to diverse educators;

(b) Formalizing partnerships with professional groups to leverage tutoring and internships;

(c) Volunteering experiences as a way of assisting future educators exploration of education related careers;

(d) Working with TeachOregon projects to develop, test, and expand improved job recruitment and retention practices that lead to a more diverse workforce in Oregon;

(e) Creating a high school cadet program or career pathway model for district employees to recruit future educators who are culturally and/or linguistically diverse;

(f) Allocating funding to provide financial support to future educators from underrepresented populations.

Stat. Auth.: 2013 OL Ch. 661, Sec. 1 (Enrolled HB3233)

Stat. Implemented: 2013 OL Ch. 661, Sec. 1 (Enrolled HB3233)

Hist.: ODE 26-2014, f. & cert. ef. 6-24-14

581-018-0411

Eligibility

(1) To be eligible to receive the Oregon Minority Educator Pipeline Models Grant an applicant must be a:

(a) School district;

(b) Post-secondary institution;

(c) Consortium of school districts, post-secondary institutions and other entities (each consortium must include at least one school district or post-secondary institution as a member).

(2) A single grant proposal may include more than one eligible applicant, but the fiscal agent must be one of the eligible applicants identified in subsection (1) of this rule.

Stat. Auth.: 2013 OL Ch. 661, Sec. 1 (Enrolled HB3233)

Stat. Implemented: 2013 OL Ch. 661, Sec. 1 (Enrolled HB3233)

Hist.: ODE 26-2014, f. & cert. ef. 6-24-14

581-018-0416

Criteria

(1) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted for the Oregon Minority Educator Pipeline Models Grant funds. All proposals must comply with the requirements of section

1, chapter 661, Oregon Laws 2013 (Enrolled House Bill 3233) and rules adopted to implement that section.

(2) Grants shall be awarded based on the following criteria:

(a) Whether the grant application identifies how the funds will be used to reach the targeted outcomes and intent of the Oregon Teacher Corps and the Oregon Minority Teacher Act.

(b) Whether the grant applicant demonstrates readiness, commitment, and support to expand models of recruitment and retention for culturally and/or linguistically diverse educators.

(3) The Department shall give priority to proposals that meet the minimum criteria and:

(a) Provide a sustainability plan to continue the program for at least two years after the grant funding has ended.

(b) The extent to which the applicant clearly documents its capacity to implement and carry out purposeful system for recruiting a diverse student population, providing financial support to future educators, and collaborating with key partners in the process.

(4) The Department of Education shall allocate funds for the grant program based on the evaluation of the grant application and the following considerations:

(a) Geographic location of the district to insure geographic diversity within the recipients of grant program funds throughout the state;

(b) Applicants who have documented evidence of creating and maintaining successful minority educator pipeline models;

(c) Applicants who have a high level of potential teacher candidates (applicant pool) from diverse cultural and linguistic backgrounds; and

(d) Give preference to applicants that have demonstrated success in creating strong partnerships with community organizations support outcomes.

Stat. Auth.: 2013 OL Ch. 661, Sec. 1 (Enrolled HB3233)

Stat. Implemented: 2013 OL Ch. 661, Sec. 1 (Enrolled HB3233)

Hist.: ODE 26-2014, f. & cert. ef. 6-24-14

581-018-0421

Funding

(1) Each grantee may receive \$180,000 which shall be awarded during the following phases based on a detailed budget narrative and budget template:

(a) Planning phase.

(b) Implementation phase.

(c) Evaluation phase.

(2) Grantees shall use funds received for the planning, implementation, and evaluation phases of the grant for activities outlined in the request for proposal.

(3) Grantees must be able to expend the funds for allowable purposes specified in the request for proposal within the grant timeline according to acceptable accounting procedures.

Stat. Auth.: 2013 OL Ch. 661, Sec. 1 (Enrolled HB3233)

Stat. Implemented: 2013 OL Ch. 661, Sec. 1 (Enrolled HB3233)

Hist.: ODE 26-2014, f. & cert. ef. 6-24-14

581-018-0425

Reporting

The Oregon Department of Education shall provide to grant recipients a template for an interim and final grant report. Grantees are required to submit a final report prior to receiving their final request for funds.

Stat. Auth.: 2013 OL Ch. 661, Sec. 1 (Enrolled HB3233)

Stat. Implemented: 2013 OL Ch. 661, Sec. 1 (Enrolled HB3233)

Hist.: ODE 26-2014, f. & cert. ef. 6-24-14

581-018-0431

Definitions

The following definitions apply to OAR 581-018-0431 to 581-018-0443:

(1) “Non-profit organization” means:

(a) An organization established as a nonprofit organization under the laws of Oregon; and

(b) Qualifies as an exempt organization under section 501(c)(3) of the Internal Revenue Code as defined in ORS 314.011.

(2) “Proficiency-based teaching and learning” means a practice that is student-centered and based upon several key principles:

(a) Students learn in a personalized environment and advance upon demonstrated mastery of state, industry, or national standards;

(b) Measurable learning objectives are explicit and empower students;

(c) Student assessment is meaningful and a positive learning experience; and

(d) Students receive rapid, differentiated support and learning outcomes including applied learning.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 25-2014, f. & cert. ef. 6-24-14

581-018-0434

Establishment

(1) The Proficiency-Based Teaching and Learning Grant is established to support proficiency-based teaching and learning demonstration sites. The purposes of the grant are:

(a) To inform proficiency-based teaching and learning practices in other school sites; and

(b) To develop new proficiency-based teaching and learning school sites in underserved regions in the state.

(2) Grants will fund eligible entities committed to developing sustainable proficiency-based teaching and learning programs in a school district or consortia of school districts with a strong commitment to improving student achievement and to providing demonstration sites for proficiency-based teaching and learning in the state.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 25-2014, f. & cert. ef. 6-24-14

581-018-0437

Eligibility

(1) The following entities shall be eligible to receive Proficiency-Based Teaching and Learning Grants:

(a) School districts.

(b) Non-profit organizations working with at least one school district.

(2) A single grant proposal may include more than one eligible applicant and may also include other entities such as education service districts or post-secondary institutions, but the fiscal agent must be one of the eligible applicants identified in subsection (1) of this rule.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 25-2014, f. & cert. ef. 6-24-14

581-018-0440

Implementation of Grant Funding

(1) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted for the Proficiency-Based Teaching and Learning Grants. All proposals must comply with the requirements of section 1, chapter 661, Oregon Laws 2013 (Enrolled House Bill 3233) and rules adopted to implement that section.

(2) The Department may award up to two grants. Each grant shall support one to four demonstration sites within one or more school districts.

(3) To receive a grant an applicant must demonstrate a high level of support from school district boards and local education associations in all participating districts.

(4) The Department shall determine the amount of each grant based on the funds available for the grants and each grant application. The Department shall allocate funds for the grant program based on an evaluation of the grant application and whether the applicant has:

(a) Demonstrated a focus on district, state, and Common Core standards as the learning targets for which students will be held accountable;

(b) Defined levels of proficiency laid out on a learning continuum that is used to identify baseline ability and that reflects a range of continuous learning;

(c) Has experience and training expertise in coaching and supporting schools in proficiency or will utilize another entity with this expertise as a sub-contractor and partner;

(d) Identified sites in the application that are willing to serve as a demonstration sites for other school districts and a source of evidence of best practices and evidence-based models; and

(e) A plan that includes a strong outreach to parent and business communities to insure that those groups understand the shift to standards at a school site and what it means to support students in reaching proficient levels of knowledge and skills.

(5) The Department of Education shall allocate funds for the grant program based on the evaluation of the grant application and the following considerations:

(a) Geographic location of district to insure geographic diversity within the recipients of grant program funds throughout the state;

(b) Districts that have achievement gaps between subgroup populations; and

(c) Districts that have a high level of students who are economically disadvantaged.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 25-2014, f. & cert. ef. 6-24-14

581-018-0443

Timelines and Performance Measures

The Oregon Department of Education shall provide award recipients a template for interim and final grant reports. Recipients are required to submit the interim and final report prior to receiving their final request for funds.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 25-2014, f. & cert. ef. 6-24-14

581-018-0500

Definitions

The following definitions apply to OAR 581-018-0500 to 581-018-0515:

(1) “Achievement gap” means the research-based gap in opportunity that often exists between students who are economically disadvantaged, students learning English as a second language and students who are African American, Hispanic or Native American and their White peers.

(2) “Culturally responsive” means the implicit use of the cultural knowledge, prior experiences, frames of reference, and performance styles of diverse students to make learning more appropriate and effective for them.

(3) “Culturally Responsive Pedagogy and Practices Grant” means the Grant established in OAR 581-018-0205 to implement ORS 342.950(3)(f).

(4) “Culturally Relevant” means pedagogy and practices that propose the following: students must experience academic success, students must develop and/or maintain cultural competence, and students must develop a critical consciousness through which they challenge the status quo of the current social order.

(5) “Culturally and/or linguistically diverse” means: students who identify as racial and/or ethnically diverse (Hispanic, African American, Native American, Alaskan Native, Pacific Islander) or whose native language is not English.

(6) “Culturally competent” means the ability to successfully teach students who come from a culture or cultures other than our own. It entails developing certain personal and interpersonal awareness and sensitivities, understanding certain bodies of cultural knowledge, and mastering a set of skills that, taken together, underlie effective cross-cultural teaching and culturally responsive teaching.

(7) “Systemic Equity” means: the transformed ways in which systems and individuals habitually operate to ensure that every learner— in whatever learning environment that learner is found — has the greatest opportunity to learn enhanced by the resources and

supports necessary to achieve competence, excellence, independence, responsibility, and self-sufficiency for school and for life.

(8) "Opportunity gap" means: the ways in which race, ethnicity, socioeconomic status, English proficiency, community wealth, familial situations, or other factors contribute to or perpetuate lower educational aspirations, achievement, and attainment for certain groups of students.

(9) "Pre-service teacher" means an individual who is enrolled in a post-secondary teacher preparation program at the undergraduate or graduate level working to obtain an initial teaching license.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 6-2014(Temp), f. & cert. ef. 2-19-14 thru 8-18-14; ODE 24-2014, f. & cert. ef. 6-24-14

581-018-0503

Establishment

(1) There is established the Culturally Responsive Pedagogy and Practices Grant to support school districts and post-secondary educator preparation programs who are working to close achievement gaps for culturally and/or linguistically diverse learners through culturally responsive pedagogy and practices. The grants may be used to fund research based best practices which:

(a) Provide a critical opportunity for schools and institutions of higher education to address the social and academic needs of diverse students ; and

(b) Connect in-school experiences with out-of-school living, promote educational equity and excellence, and create a strong community among individuals from diverse cultural, social, and ethnic backgrounds while developing students' sense of agency, efficacy, and empowerment.

(2) Subject to available funds, the grants will be awarded for the biennium based on a detailed description of proposed programming or services. This can include but is not limited to:

(a) Planning phase.

(b) Implementation phase.

(3) The purpose of the grant program is to provide funds to school districts and post-secondary educator preparation programs that are focused on collaboration around culturally responsive professional development and pre-service teacher preparation Outcomes of this work should be evident through teacher interactions with culturally and/or linguistically diverse learners and increased academic achievement for these students. This can include the following:

(a) Developing culturally responsive pedagogy and practice specific to closing the opportunity gap for Hispanic (Latino/a), African American, Asian American, Alaskan Native, American Native, and all other student populations of color;

(b) Connecting with students of color with special emphasis on the implementation of the Oregon Multicultural Education Act;

(c) Best practice in Education Equity;

(d) Strengthening ties between home, school, tribes, and larger communities;

(e) Post-secondary course work and field experiences concentrated on preparing pre-service teachers to demonstrate pedagogy and practices of a culturally responsive educator.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 6-2014(Temp), f. & cert. ef. 2-19-14 thru 8-18-14; ODE 24-2014, f. & cert. ef. 6-24-14

581-018-0506

Eligibility

(1) To be eligible to receive the Culturally Responsive Pedagogy and Practices Grant an applicant must be a:

(a) School district;

(b) Public charter school;

(c) Consortium of school districts, public charter schools, non-profits organizations and/or post-secondary institutions; or

(d) Consortia may have the district, public charter school, non-profit organization or post-secondary institution serve as a lead agency for the grant.

(e) Post-secondary teacher preparation programs. Each post-secondary institution must have at least one school districts or public charter school as a partner.

(f) Non-profit organization. Each non-profit organization must have at least one school district, public charter and/or post-secondary institution as a partner.

(2) In addition to the entities listed in subsection (1) of this section consortiums may also have additional partner entities.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 6-2014(Temp), f. & cert. ef. 2-19-14 thru 8-18-14; ODE 24-2014, f. & cert. ef. 6-24-14

581-018-0509

Criteria

(1) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted for the Culturally Responsive Pedagogy and Practices Grant funds. All proposals must comply with the requirements of section 1, chapter 661, Oregon Laws 2013 (Enrolled House Bill 3233) and rules adopted to implement that section.

(2) Grants shall be awarded based on the following criteria:

(a) Whether the grant application identifies how the funds will be used to reach the 40-40-20 goal and improve education outcomes for students of color and English learners as identified by the Chief Education Office Equity Lens document.

(b) Whether the grant applicant demonstrates commitment and readiness to use best practice around culturally responsive pedagogy and practice to close opportunity gaps for culturally and/or linguistically diverse learners.

(3) The Department shall give priority to proposals that meet the minimum criteria and:

(a) Provide a sustainability plan to continue the program for at least two years after the grant funding has ended.

(b) The extent to which the applicant clearly documents its capacity to design and implement preparation and/or professional development that focuses on culturally responsive pedagogy and practices that:

(A) Increase academic achievement, retention, and graduation rates for students of color;

(B) Increase student engagement and participation;

(C) Increase of the presence of culturally competent teachers and teaching;

(D) Strengthen the bond and communication between home, school, tribe, and the larger community;

(E) Effectively utilize the local community as an extension of the classroom learning environment;

(F) Use any exemplary multicultural curricula or strategies identified by the Department of Education pursuant to the Oregon Multicultural Act under ORS 336.113, as a guide for curriculum and development; and

(G) Implement professional development that is culturally responsive and extends throughout the entire school year;

(H) Revise course offerings and field experiences for pre-service teachers that explicitly prepares educators to implement culturally responsive teaching and practices.

(4) The Department of Education shall allocate funds for the grant program based on the evaluation of the grant application and the following considerations:

(a) Geographic location of applicants to insure geographic diversity within the recipients of grant program funds throughout the state;

(b) Applicants who demonstrate evidence of prior design/planning of a robust culturally responsive learning environment as a way to close achievement gaps for culturally and/or linguistically diverse learners;

(c) Applicants who have a high level of culturally and/or linguistically diverse learners, and those who experience economic disparities.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 6-2014(Temp), f. & cert. ef. 2-19-14 thru 8-18-14; ODE 24-2014, f. & cert. ef. 6-24-14; ODE 34-2016, f. & cert. ef. 5-17-16

581-018-0512

Funding

(1) Each grantee may apply for between \$50,000–\$200,00 in funding which shall be awarded during the following phases based on a detailed budget narrative and budget template:

- (a) Planning phase;
- (b) Implementation Phase.

(2) Grantees shall use funds received for the planning and implementation phases of the grant for activities outlined in the request for proposal.

(3) Grantees must be able to expend the funds for allowable purposes specified in the request for proposal within the grant timeline according to acceptable accounting procedures.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 6-2014(Temp), f. & cert. ef. 2-19-14 thru 8-18-14; ODE 24-2014, f. & cert. ef. 6-24-14

581-018-0515

Reporting

The Oregon Department of Education shall provide to grant recipients a template for an interim and final grant report. Grantees are required to submit a final report prior to receiving their final request for funds.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 6-2014(Temp), f. & cert. ef. 2-19-14 thru 8-18-14; ODE 24-2014, f. & cert. ef. 6-24-14

581-018-0520

Definitions

The following definitions apply to OAR 581-018-0520 to 581-018-0535:

(1) “Achievement gap” means the research-based gap in opportunity that often exists between students who are economically disadvantaged, students learning English as a second language and students who are African American, Hispanic or Native American and their White peers.

(2) “American Indian”/Alaskan Native means persons having origins in any of the original peoples of North and South America (including Central American) and who maintain tribal affiliation or community attachment.

(3) “Closing the Achievement Gap for American Indian/Alaskan Native Students Grant” means the Grant established in OAR 581-018-0523 to implement ORS 342.950(3)(f).

(4) “Culturally and/or linguistically diverse” means: students who identify as racial and/or ethnically diverse (Hispanic, African American, Native American, Alaskan Native, Pacific Islander) or whose native language is not English.

(5) “Culturally competent” means the ability to successfully teach students who come from a culture or cultures other than our own. It entails developing certain personal and interpersonal awareness and sensitivities, understanding certain bodies of cultural knowledge, and mastering a set of skills that, taken together, underlie effective cross-cultural teaching and culturally responsive teaching.

(6) “Culturally relevant” means pedagogy and practices that propose the following: students must experience academic success, students must develop and/or maintain cultural competence, and students must develop a critical consciousness through which they challenge the status quo of the current social order.

(7) “Culturally responsive” means the implicit use of the cultural knowledge, prior experiences, frames of reference, and performance styles of diverse students to make learning more appropriate and effective for them.

(8) “Non-profit organization” means:

(a) An organization established as a nonprofit organization under the laws of Oregon; and

(b) Qualifies as an exempt organization under section 501(c)(3) of the Internal Revenue Code as defined in ORS 314.011.

(9) “Postsecondary Institution” means:

(a) A community college operated under ORS Chapter 341.

(b) The following public universities within the Oregon University System:

- (A) University of Oregon.
- (B) Oregon State University.
- (C) Portland State University.
- (D) Oregon Institute of Technology.
- (E) Western Oregon University.
- (F) Southern Oregon University.
- (G) Eastern Oregon University.
- (H) Oregon Health and Science University.

(I) An Oregon-based, generally accredited, not-for-profit institution of higher education.

(10) “Systemic Equity” means the transformed ways in which systems and individuals habitually operate to ensure that every learner — in whatever learning environment that learner is found— has the greatest opportunity to learn enhanced by the resources and supports necessary to achieve competence, excellence, independence, responsibility, and self-sufficiency for school and for life.

(11) “Title VII Indian Education” means a federally funded program receiving United State Department of Education Title VII — Indian, Native Hawaiian, and Alaska Native Education funding.

(12) “Tribe” means:

(a) The Confederated Tribes of the Warm Springs Indian Reservation.

(b) The Confederated Tribes of the Umatilla Indian Reservation.

(c) The Burns-Paiute Tribe.

(d) The Confederated Tribes of Siletz Indians of Oregon.

(e) The Confederated Tribes of the Grand Ronde.

(f) The Cow Creek Band of Umpqua Indians.

(g) The Confederated Coos, Lower Umpqua and Siuslaw Tribes.

(h) The Klamath Tribe.

(i) The Coquille Tribe.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 18-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14; ODE 23-2014, f. & cert. ef. 6-24-14

581-018-0523

Establishment

(1) There is established the American Indian/Alaskan Native Culturally Relevant Teaching, Learning, and Pedagogy Grant Program to support the collaborative efforts to design, implement, improve, expand or otherwise infuse American Indian/Alaskan Native culturally responsive pedagogy and effective instructional practices to increase student academic achievement, high school completion and successful engagement in post-secondary educational opportunities.

(2) Subject to available funds, the grant will be awarded for the biennium based on a detailed description of proposed programming or services.

(3) The purpose of the grant program is to provide funds for programs that have the potential to become exemplar programs and can create collaborative practices through the facilitation of:

(a) Strengthening relationships between school district, local community and tribal governance;

(b) Collaboration between school districts, non-profit organizations, Title VII Indian Education Programs, postsecondary institutions, native communities or organizations, and education service districts to assist with identifying evidence-based practices and best practices;

(c) Enhancing the American Indian/Alaskan Native cultural competence of district educators;

(d) Developing and implementing best practices in an effort of increasing academic outcomes of American Indian/Alaskan Native; and

(e) Developing or expanding opportunities to include American Indian/Alaskan Native language and culture in classrooms.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 18-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14; ODE 23-2014, f. & cert. ef. 6-24-14

581-018-0526

Eligibility

(1) To be eligible to receive the American Indian/Alaskan Native Culturally Relevant Teaching, Learning, and Pedagogy Grant Program a qualified applicant must:

(a) Be a school district or consortia of districts and must have a partnership with one or more of Oregon's federally recognized Tribes; or

(b) Be a non-profit organization focusing on Indian education applying in collaboration with a school district.

(2) Qualified applicants must also be available to work with a consultant, provided by Oregon Department of Education, to receive guidance and support during all phases of the funding cycle.

(3) A single grant proposal may include more than one eligible proposal and other entities but the lead agency for the proposal must be a school district or a non-profit organization.

(4) The Department of Education shall give preference to applicants that meet the minimum qualifications described in this section and who can demonstrate collaborative relationships with partners with expertise in working with American Indian/Alaskan Native students or educators who provide educational services to American Indian/Alaskan Native students. The partners may include but are not limited to postsecondary institutions, education service districts, federal Title VII Indian Education programs and native communities or organizations.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 18-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14; ODE 23-2014, f. & cert. ef. 6-24-14

581-018-0529

Criteria

(1) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted for the American Indian/Alaskan Native Culturally Relevant Teaching, Learning, and Pedagogy Grant Program funds. All proposals must comply with the requirements of ORS 342.950 and rules adopted to implement that section.

(2) Grants shall be awarded based on the following criteria:

(a) Whether the grant application identifies how the funds will be used to reach the 40-40-20 goal and improve education outcomes for American Indian/Alaskan Native students as identified by the Chief Education Office Equity Lens document;

(b) Whether the grant application describes a strong and robust plan to close achievement gaps for American Indian/Alaskan Native students;

(c) Whether the grant application describes expected outcomes and a strong and robust plan to achieve those outcomes; and

(d) Whether the grant applications demonstrates how partners will collaborate on a mutually designed proposal in which all essential parties participate.

(3) The Department shall give priority to proposals that meet the minimum criteria and that demonstrate the use of evidence-based or best practice models of the required elements specific to American Indian/Alaskan Native:

(a) Culturally Responsive Pedagogy:

(A) Communication of high expectations.

(B) Teacher as facilitator within classroom.

(C) Integration of students' prior knowledge and skills through cultural activities, language, ways of life, the arts, and traditional knowledge system.

(D) Positive perspectives on parents and families of culturally and linguistically diverse students.

(E) Cultural sensitivity.

(F) Curricular decisions.

(G) Culturally mediated instruction.

(H) Student-centered, student-controlled classroom discourse.

(b) Culturally Responsive Leadership:

(A) Commitment to reform the educational system to reflect culturally responsiveness through organization of the school and school policies and procedures.

(B) Reshaping the curriculum.

(C) Professional development that is grounded in the principles of culturally responsive teaching.

(c) Culturally Responsive Community Engagement:

(A) Collaboration with one or more of the Tribes in Oregon or Title VII Indian Education Program.

(B) Postsecondary institution.

(C) Education Service Districts.

(D) Local American Indian/Alaskan Native communities and organizations.

(E) Community involvement of stakeholders (families, advocacy organizations, and other private, non-profit, business, faith-based organizations).

(F) Communication with families that is regular, uses diverse media and shares student achievement status and goals.

(d) Culturally Responsive Pre-Service and In-Service for Teachers:

(A) Coursework and field experiences for pre-service teachers that focuses on culturally responsive teaching, learning, and practice that:

(i) Reflects relevant research;

(ii) Uses local data;

(iii) Ensures principles of culturally responsive pedagogy.

(B) Includes collaboration with institutes of higher education (specifically Oregon Native American Indian Education Teacher Programs).

(e) Provide a sustainability plan to continue the program for at least two years after the grant funding has ended.

(f) The extent to which the proposal clearly documents its capacity to implement and carry out programming and services for American Indian/Alaskan Native culturally responsive pedagogy, practices, and professional development and demonstrates intentions to work in a collaboration with identified partners.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 18-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14; ODE 23-2014, f. & cert. ef. 6-24-14; ODE 34-2016, f. & cert. ef. 5-17-16

581-018-0532

Funding

(1) The Department may award grants up to \$100,000 based on a detailed budget narrative and budget template.

(2) Grantees shall use funds received for the grant for activities outlined in the request for proposal.

(3) Grantees must be able to expend the funds for allowable purposes specified in the request for proposal within the grant timeline according to acceptable accounting procedures.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 18-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14; ODE 23-2014, f. & cert. ef. 6-24-14

581-018-0535

Reporting

The Oregon Department of Education shall provide to grant recipients a template for an interim and final grant report. Grantees are required to submit a final report prior to receiving their final request for funds.

Stat. Auth.: ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 18-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14; ODE 23-2014, f. & cert. ef. 6-24-14

581-018-0540

Definitions

The following definitions apply to OAR 581-018-0540 to 581-018-0556:

(1) "English Language Proficiency Standards" means the standards adopted by the State Board of Education to show what a student should know and be able to do at a given grade level. The English Language Proficiency Standards are also referred to as ELP Standards.

(2) "English Learner" or "English Language Learner" means a student who meets the definition of "Limited English Proficient"

found in Title IX, Part A, Section 9101.25 of the No Child Left Behind Act of 2001 (NCLB).

(3) “Massive Open Online Course (MOOC)” means an online course aimed at unlimited participation and open access via the Internet.

(4) “Professional Learning” means opportunities that allow educators to collaborate and learn about new standards, methodologies, and strategies for working with students.

(5) “Training of Trainers” means a style of training designed to equip small groups of trainers with the skills, knowledge and strategies to train larger groups of educators in their local school districts.

(6) “ELP Standards Work Group” refers to a group of lead educators established under OAR 581-018-0546 that serve as an advisory body and corps of trainers in the Professional Learning Team Conference.

Stat. Auth. ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 7-2014(Temp), f. & cert. ef. 2-19-14 thru 8-18-14; ODE 14-2014(Temp), f. & cert. ef. 3-4-14 thru 8-18-14; ODE 22-2014, f. & cert. ef. 6-24-14

581-018-0543

Establishment

(1) There is established the English Language Proficiency Standards Professional Learning Grant.

(2) The purpose of the English Language Proficiency Standards Professional Learning Grant is to support target school districts with the implementation of the new English Language Proficiency Standards.

(3) The English Language Proficiency Standards Professional Learning Grant will support a training of trainers system that leverages Oregon’s instructional leadership to incorporate the new ELP standards into teaching practice to support English Learners throughout the school day.

(4) ELD and mainstream educators within target school districts will participate in virtual and in-person professional learning opportunities to learn about the new ELP Standards and plan their implementation in classroom instruction.

Stat. Auth. ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 7-2014(Temp), f. & cert. ef. 2-19-14 thru 8-18-14; ODE 14-2014(Temp), f. & cert. ef. 3-4-14 thru 8-18-14; ODE 22-2014, f. & cert. ef. 6-24-14

581-018-0546

Purpose of Grant

(1) The purpose of the English Language Proficiency Standards Professional Learning Grant is to provide cyclical, reflective professional learning opportunities to Oregon educators to support the implementation of the new English Language Proficiency Standards throughout the state of Oregon by the end of the 2014–2015 school year.

(2) The Oregon Department of Education shall facilitate for target school districts:

(a) Statewide and regional workshops among districts to promote collaborative learning and sharing of best practices.

(b) A Massive Open Online Course to engage educators throughout Oregon in professional learning with the English Language Proficiency Standards.

(3) The Oregon Department of Education shall establish a ELP Standards Work Group and may contract with members of the ELP Standards Work Group to provide professional learning and technical assistance to support implementation of the ELP Standards within the target school districts.

Stat. Auth. ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 7-2014(Temp), f. & cert. ef. 2-19-14 thru 8-18-14; ODE 14-2014(Temp), f. & cert. ef. 3-4-14 thru 8-18-14; ODE 22-2014, f. & cert. ef. 6-24-14

581-018-0549

Eligibility

(1) The following school districts shall be eligible to receive the English Language Proficiency Standards Professional Learning Grant as target school districts:

(a) School districts with greater than 500 English Learners; or
(b) School districts where English Learners comprise 15% of the total student population in the district.

(2) A public charter school with English Learners within a target district may receive grant funds through the district and may participate in grant activities.

(3) Notwithstanding subsection (1) of this rule, a school district that would receive less than \$1,000 under OAR 581-018-0553 is not eligible to receive a grant except as a member of a consortium of target school districts.

Stat. Auth. ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 7-2014(Temp), f. & cert. ef. 2-19-14 thru 8-18-14; ODE 14-2014(Temp), f. & cert. ef. 3-4-14 thru 8-18-14; ODE 22-2014, f. & cert. ef. 6-24-14

581-018-0552

Grant Uses and Requirements

(1) The Oregon Department of Education shall distribute grant funds to eligible districts that agree to do the following:

(a) Commit a team of 4 members to participate in five Professional Learning Team (PLT) Conferences. Two PLT Conferences will be held in the 2013–2014 school year, followed by three PLT Conferences in the 2014–2015 school year. The district’s ELP Standards Professional Learning Team will consist of:

- (A) A district level curriculum and instruction leader;
- (B) A Title III director;
- (C) An English Language Development teacher; and
- (D) A mainstream teacher.

(b) The district’s ELP Standards Professional Learning Team will serve as a corps of trainers to lead professional learning within the district for ELD teachers, mainstream teachers, administrators, and staff.

(c) Professional Learning Teams must agree to participate in the Massive Open Online Course to be held at the beginning of the 2014–2015 school year.

(d) The Professional Learning Team must agree to create a model unit aligned to the new ELP Standards. This model unit will contain the following criteria, which will be posted to the network portal to be shared with colleagues throughout Oregon:

- (A) Scope and sequence;
- (B) Formative assessments;
- (C) Summative assessment;
- (D) Three sample lesson plans.

(e) The district’s Superintendent must commit to attending at least one event identified by the Department of Education to develop an understanding of the ELP Standards.

(f) Participating target districts must also commit to serving as an observation site for neighboring districts. Peer to peer observation visits will be a critical component of sharing best practices aligned to the new ELP Standards.

Stat. Auth. ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 7-2014(Temp), f. & cert. ef. 2-19-14 thru 8-18-14; ODE 14-2014(Temp), f. & cert. ef. 3-4-14 thru 8-18-14; ODE 22-2014, f. & cert. ef. 6-24-14

581-018-0553

Funding

(1) The Department shall allocate funds to target school districts or consortia of target school districts to establish and support Professional Learning Teams to lead workshops for educators to implement the English Language Proficiency Standards.

(2) Provided that the district has met the requirements described in OAR 581-018-0552, the Department shall award districts that participate in the Professional Learning Team Conferences a non-competitive grant based on their total number of English Learners by district.

(3) The Department shall determine the amount of each grant as follows: Each target district grant about equals the district's number of English Language Learners multiplied by (the total amount available for distribution for the grants to districts divided by the total English Language Learners of all target school districts).

(4) Funds received by a school district under this section must be separately accounted for and may be used only to provide funding for the purposes described in the application of the grant recipient.

Stat. Auth. ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 7-2014(Temp), f. & cert. ef. 2-19-14 thru 8-18-14; ODE 14-2014(Temp), f. & cert. ef. 3-4-14 thru 8-18-14; ODE 22-2014, f. & cert. ef. 6-24-14

581-018-0556

Reporting

The Oregon Department of Education will provide a template for an interim and final grant report. Grantees are required to submit a final report prior to receiving their final request for funds.

Stat. Auth. ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 7-2014(Temp), f. & cert. ef. 2-19-14 thru 8-18-14; ODE 14-2014(Temp), f. & cert. ef. 3-4-14 thru 8-18-14; ODE 22-2014, f. & cert. ef. 6-24-14

581-018-0575

Definitions

The following definitions apply to OAR 581-018-0575 to 581-018-0590:

(1) "Early Learning workforce" means those individuals employed in the provision of services to children who are zero through six years of age.

(2) "Equity Lens" means the Equity Lens adopted by the Chief Education Office and described in OAR 581-018-0010.

(3) "Non-profit organization" means:

(a) An organization established as a nonprofit organization under the laws of Oregon; and

(b) Qualifies as an exempt organization under section 501(c)(3) of the Internal Revenue Code as defined in ORS 314.011.

(4) "Postsecondary Institution" means a:

(a) A community college operated under ORS Chapter 341.

(b) The following public universities within the Oregon University System:

(A) University of Oregon.

(B) Oregon State University.

(C) Portland State University.

(D) Oregon Institute of Technology.

(E) Western Oregon University.

(F) Southern Oregon University.

(G) Eastern Oregon University.

(c) Oregon Health and Science University.

(d) An Oregon-based, generally accredited, not-for-profit institution of higher education.

(5) "Underserved student" means a student (English language learner, student of color, an economically disadvantaged student or a student with disabilities) who has not historically considered enrolling in a post-secondary education program.

Stat. Auth. ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 17-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14; ODE 32-2014, f. & cert. ef. 6-24-14; ODE 34-2016, f. & cert. ef. 5-17-16

581-018-0578

Establishment

(1) There is established the Early Learning Professional Development Grant Program to implement ORS 342.950(3)(i).

(2) The Early Learning Professional Development Grant Program has the following purposes:

(a) To expand and scale up partnerships involving community colleges and undergraduate educator preparation programs at post-secondary institutions that are dedicated to creation of early childhood stackable and portable certificates, credentials, and degree

programs that prepare more non-traditional dual language educators and that support more seamless transition from Associate of Arts (AA) to Bachelor of Arts (BA) completion.

(b) To scale up AA/BA degree programs that can flexibly meet the needs of the existing early childhood workforce and provide a comprehensive array of supports to individuals completing degrees in Early Childhood Education.

Stat. Auth. ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 17-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14; ODE 32-2014, f. & cert. ef. 6-24-14

581-018-0581

Eligibility

(1) The following types of organizations may apply for funding:

(a) Post-secondary institutions;

(b) Non-profit organizations; and

(c) Providers of early learning services.

(2) A single grant proposal may include more than one eligible applicant, but the lead applicant must be one of the eligible applicants identified in subsection (1) of this rule.

(3) Each grant proposal must contain at least one post-secondary institution as a partner in the proposal.

Stat. Auth. ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 17-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14; ODE 32-2014, f. & cert. ef. 6-24-14

581-018-0584

Criteria

(1) Applicants for grant funds must demonstrate a commitment and readiness to design or revise programming that address the following features:

(a) Transferability across post-secondary institutions;

(b) Provide direct support for students; and

(c) Program designed for underserved students.

(2) Priority for funding shall be given to applicants that have met the grant requirements along with the following considerations regarding communities to be served by the grant:

(a) Communities that have a high percentage of culturally or linguistically diverse young children;

(b) Communities that have a high percentage of culturally or linguistically diverse candidates in the local early childhood workforce;

(c) Location of the community to support geographic diversity among the recipients of grant program funds across the state.

(3) Consideration shall also be given to whether the grant application identifies how the funds will be used to improve education outcomes set forth in ORS 351.009.

Stat. Auth. ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 17-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14; ODE 32-2014, f. & cert. ef. 6-24-14; ODE 34-2016, f. & cert. ef. 5-17-16

581-018-0587

Funding

(1) The Department of Education shall determine for each fiscal year the portion of the funds available for the Early Learning Professional Development.

(2) Funds received under this section must be separately accounted for and may be used only to provide funding for the purposes described in the application of the grant recipient.

(3) The Department shall determine the amount of the grant based on the merits of the designed programs and alignment of the criteria.

Stat. Auth. ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 17-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14; ODE 32-2014, f. & cert. ef. 6-24-14

581-018-0590

Reporting

Recipients of the Early Learning Professional Development grant funds must report on the grant to the Department of Education and Chief Education Office. The report must include:

(1) Evidence toward meeting defined outcomes as articulated in the grant; and

(2) Description of outputs and activities related to creation of Early Learning Professional Development program.

(3) Data related to the impact of the project on students, teachers and community partners. These data may include but are not limited to the following:

(a) Number of students enrolled in the program(s).

(b) Interviews or surveys conducted by Department staff or evaluators.

(c) Data on specific measures of teacher knowledge and skills related to project outcomes.

Stat. Auth. ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 17-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14; ODE 32-2014, f. & cert. ef. 6-24-14; ODE 34-2016, f. & cert. ef. 5-17-16

DIVISION 19

PREKINDERGARTEN

581-019-0005

Definitions

The following definitions apply to Oregon Administrative rules 581-019-0010 through 581-019-0035.

(1) "Advisory Committee" means the Oregon Department of Education advisory committee for the prekindergarten program and the parent education program established by Chapter 684, Oregon Laws 1987.

(2) "Applicant" means a public or private nonsectarian organization which applies for prekindergarten funds.

(3) "Approved Prekindergarten Programs" means those programs which are recognized by the Department as meeting the minimum program rules to be adopted by the State Board of Education.

(4) "At-Risk" means a child at least three years of age and not eligible for kindergarten whose family circumstances would qualify that child for eligibility under the federal Head Start Program.

(5) "Children with Disabilities" means children who are of the age served by the prekindergarten program of their residence and who require special education in order to obtain the education of which they are capable, because of mental, physical, emotional, or learning problems. These groups include but are not limited to those categories that have traditionally been designated: intellectually disabled, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired children.

(6) "Contractor" means an applicant which has been awarded state funds under the prekindergarten program, and which has entered into a contract with the Department of Education to provide a prekindergarten program. Contractors may be local public or private organizations which are nonsectarian in their delivery of services.

(7) "Department" means the Department of Education.

(8) "Eligible Child" means an at-risk child who is not a participant in a federal, state, or local program providing like comprehensive services and may include children who are eligible under rules adopted by the State Board of Education.

(9) "Family" means all persons living in the same household who are:

(a) Supported by the income of the parent(s), caretaker(s) or guardian(s) of the child enrolling in the prekindergarten program; and

(b) Related to the parent(s), caretaker(s) or guardian(s) by blood, marriage, or adoption.

(10) "Nonsectarian" means that no aspect of prekindergarten services will include any religious orientation.

(11) "Prekindergarten" means those programs which provide comprehensive health, education, and social services in order to maximize the potential of three- and four-year-old children. The "State Prekindergarten Programs" means the statewide administrative activities carried out within the Department of Education to allocate, award, and monitor state funds appropriated to create or assist local prekindergarten programs.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 329.175 & 329.195

Hist.: EB 10-1988, f. & cert. ef. 2-24-88; ODE 26-2008, f. 10-23-08, cert. ef. 10-24-08; ODE 12-2011, f. & cert. ef. 10-31-11

581-019-0010

Use of Grant Funds by Grantees

(1) A minimum of 2.5 percent of the total grant shall be used for staff development.

(2) Start-up costs may be allocated to assist in limited funding of "one-time" costs needed to start new programs, or to add children to existing programs.

(3) Contractors shall use grant funds to serve Oregon residents.

(4) Contractors must have established appropriate internal fiscal controls and fund accounting procedures to assure the proper disbursement of, and accounting for, all funds provided.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 329.175 & 329.195

Hist.: EB 10-1988, f. & cert. ef. 2-24-88

581-019-0015

Eligibility Criteria for Contract Applicants

(1) Public or private nonsectarian organizations or consortia of organizations are eligible to apply for funding as a prekindergarten program.

(2) No person in any prekindergarten program shall be subjected to discrimination as defined in ORS 659.850.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 329.175 & 329.195

Hist.: EB 10-1988, f. & cert. ef. 2-24-88

581-019-0020

Proposal Review and Contract Award

(1) Funds shall be awarded on a competitive basis. Subject to available funds, continuation grants shall be awarded on the basis of satisfactory performance.

(2) An applicant must make formal response using forms issued and established by the Department.

(3) The advisory committee will review the proposals and recommend to the State Superintendent of Public Instruction which proposals should be funded or rejected. The review committee may recommend alterations in the proposals. The committee will prioritize the proposals to the extent practicable, regionally based on percentages of unmet needs in order to distribute funds as widely as possible throughout the state.

(4) The final decisions regarding the prekindergarten program proposals will be made by the State Superintendent of Public Instruction.

(5) The Department shall notify successful applicants and shall provide to each of them a contract for signature. This contract must be signed by an official with authority to bind the applicant and must be returned to the Department prior to the award of any funds under this program.

(6) Any applicant not receiving funding may appeal for review to the State Board of Education. Such appeal must be in writing within 15 days of the date of the notice of nonfunding.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 329.175, 329.190 & 329.195

Hist.: EB 10-1988, f. & cert. ef. 2-24-88

581-019-0025

Program Design

(1) Funds appropriated shall be used to establish and maintain new or expanded prekindergarten programs and shall not be used to supplant federally supported Head Start programs.

(2) Programs shall serve the eligible children and provide all components as specified in the federal Head Start Performance Standards (U.S. Department of Health and Human Services, Administration for Children, Youth, and Families, 45 CFR 1304).

(3) Programs shall provide for staff qualifications and training, facilities and equipment, transportation and fiscal management.

(4) Programs shall coordinate with each other and with federal Head Start programs to insure efficient delivery of services and prevent overlap.

(5) Programs shall provide developmentally appropriate educational services which are consistent with the unique physical, social, emotional, and cognitive needs of young children. Developmentally appropriate programs are both age appropriate and individually appropriate.

(6) Requirements for program design shall be based on a model of comprehensive services to participating children. These include educational services, health services (including medical, dental, nutrition, and mental health), parent involvement, and social services to families. Parents shall be given the opportunity to be involved in every aspect of the planning and implementation of services. Specific program requirements are contained in the program requirements publication available from the Department dated January 21, 1988.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 329.175 & 329.195

Hist.: EB 10-1988, f. & cert. ef. 2-24-88

581-019-0030

Eligibility Criteria for Children Served

(1) Children must be at least three years old on or before September 1 of their entrance year, and not eligible for kindergarten.

(2) At least 80 percent of the children served shall be eligible according to Head Start federal regulations at 45 CFR 1305.4.

(3) No less than ten percent of the total number of enrollment opportunities in the state of Oregon shall be available for children with disabilities. See 45 CFR 1305.5.

(4) Up to 20 percent of the children served need not qualify according to Head Start regulations.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 329.175 & 329.195

Hist.: EB 10-1988, f. & cert. ef. 2-24-88; ODE 26-2008, f. 10-23-08, cert. ef. 10-24-08

581-019-0035

Suspected Abuse

Any employee of the prekindergarten program having reasonable cause to believe that any child with whom the employee comes into contact in his/her official capacity has suffered abuse or neglect, shall report or cause a report to be made in the manner required in ORS 418.755.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 329.175 & 329.195

Hist.: EB 10-1988, f. & cert. ef. 2-24-88

581-019-0036

Purpose

The purpose of these rules is to define key terms, describe eligibility criteria, and to assist Early Learning Hubs and preschool providers in the implementation and operation of Preschool Promise program services. These rules describe the standards for the establishment and operation of preschool services under the Preschool Promise program.

Stat. Auth.: ORS 326.425(7)

Stats. Implemented: ORS 329.172

Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0037

Definitions

The following definitions apply to Oregon Administrative Rules 581-019-0036 through 581-019-0049.

(1) "Child Care provider" means a person or entity that provides care, supervision, and guidance on a regular basis of a child, unaccompanied by a parent, guardian, or custodian, during a part of the 24 hours of the day.

(2) "Division" means the Early Learning Division of the Department of Education.

(3) "Early Learning Hub" or "Hub" means an entity designated under ORS 417.827 and contracted by the Early Learning Council to coordinate, fund and monitor early learning services in a specific region within the state.

(4) "Quality Rating and Improvement System" means the system established through ORS 329A.261 which establishes a set of progressively higher standards used to evaluate the quality of an early learning and development program and to support program improvement.

(5) "Preschool" means those programs which provide health, education, social and other comprehensive services in order to maximize the potential of three- and four-year-old children.

(6) "Preschool Promise" means the preschool program administered by the Early Learning Division as directed under ORS 329.172.

(7) "Preschool Provider" means an eligible participant contracted by the Early Learning Hub to provide preschool services under the Preschool Promise program.

Stat. Auth.: ORS 326.425(7)

Stats. Implemented: ORS 329.172

Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0038

Child and Family Eligibility Criteria

(1) Early Learning Hubs are responsible for ensuring that child eligibility has been verified using an eligibility determination form provided by the Division.

Family income is at or below 200 percent of the Federal Poverty Level in effect at the time eligibility is determined.

(2) Children must be at least three years of age on or before September 1 of their entrance year and not eligible for kindergarten as determined by the State Board of Education by rule.

Stat. Auth.: ORS 326.425(7)

Stats. Implemented: ORS 329.172

Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0039

Hub Selection Process; Fund disbursement

(1) Hubs will be selected through the public procurement process as provided in ORS Chapter 279A and 279B.

(2) Funding for Preschool Promise Program will be directed through Early Learning Hubs and allocated through a process determined by the Early Learning Council.

Stat. Auth.: ORS 326.425(7)

Stats. Implemented: ORS 329.172

Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0040

Use of Funds by Hubs

(1) Funds received by the Hub for the Preschool Promise Program may be used only in support of the program and provide funding to preschool providers for the purposes of administering the Preschool Promise program.

(2) Of the funds distributed, the Early Learning Division may establish a maximum percentage allowable for coordination and administration and a maximum percentage allowable for building provider capacity to meet Preschool Promise program standards.

(3) Hubs must have established appropriate internal fiscal controls and generally accepted accounting procedures to ensure the proper disbursement, separation of funding source, as appropriate, and accounting for all funds provided.

Stat. Auth.: ORS 326.425(7)

Stats. Implemented: ORS 329.172

Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0041

Eligibility Criteria for Preschool Promise Program Providers

The following entities shall be eligible for funding:

- (1) A Head Start program;
- (2) An Oregon Prekindergarten program;
- (3) A child care provider;
- (4) A relief nursery;

- (5) A private preschool;
- (6) A public school;
- (7) A public charter school;
- (8) An education service district, or;
- (9) A community-based organization.

Stat. Auth.: ORS 326.425(7)
 Stats. Implemented: ORS 329.172
 Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0042

Provider/Hub Contracts

Prior to enrolling a child under the program, a preschool provider shall enter into a contract with the Hub. The contract shall meet public procurement standards and be reviewed for legal sufficiency when required by law.

Stat. Auth.: ORS 326.425(7)
 Stats. Implemented: ORS 329.172
 Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0043

Minimum Requirements

To be eligible to provide preschool services under the Preschool Promise Program, a preschool provider must:

(1) Provide the annual number of instructional hours required for full day kindergarten as determined by the State Board of Education by rule.

(2) Meet quality standards, including:

(a) Attaining one of the top two ratings of the quality rating and improvement system for early childhood programs.

(b) Adopting culturally responsive teaching methods and practices.

(c) Providing highly trained lead preschool teachers who have at least a bachelor's degree in early childhood education or a field related to early childhood education. The requirements of this subparagraph may be satisfied by lead preschool teachers who do not have a bachelor's degree but who have submitted a plan to attain a bachelor's degree and are demonstrating progress on that plan. The educational plan provided for in this paragraph shall be submitted on a form and in a manner provided by the Division.

(d) Providing lead preschool teachers with a salary that meets the minimum salary requirements established by the Early Learning Council.

(e) Providing at least one assistant teacher in each classroom who provides support for academic instruction and who meets the state's personnel qualification requirements of one of the top two tiers for the quality rating and improvement system.

(f) Participates in an ongoing monitoring and program evaluation system that is used for continuous program improvement as established by the Division.

Stat. Auth.: ORS 326.425(7)
 Stats. Implemented: ORS 329.172
 Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0044

Minimum Salary requirements for Lead Preschool Teacher

The Early Learning Council shall establish a methodology to determine a target and minimum salary for Lead Preschool Teachers.

Stat. Auth.: ORS 326.425(7)
 Stats. Implemented: ORS 329.172
 Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0045

Use of funds by Preschool Provider

(1) Approved providers shall use funds to supplement, not to supplant, public funds from any other source that are used to serve otherwise eligible students, including, but not limited to federal, state or local public funds.

(2) Funds may not be used to pay for expenses incurred for children who:

(a) Pay tuition for the preschool program and whose family income at the time of enrollment exceeds 200 percent of federal poverty guidelines in effect at the time of enrollment.

(b) Are funded by the Oregon prekindergarten program, a Head Start program or another source of funding.

Stat. Auth.: ORS 326.425(7)
 Stats. Implemented: ORS 329.172
 Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0046

Program Monitoring and Evaluation

Programs will be monitored and evaluated on program improvement using a process established by the Division.

Stat. Auth.: ORS 326.425(7)
 Stats. Implemented: ORS 329.172
 Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0047

Waiver Application Process

(1) A preschool provider may request a waiver of the requirements of ORS 329.172(4) and 581-019-0043 during the first years of the provider's participation in the Preschool Promise program.

(2) The Division administers the waiver application and approval process under the direction of the Early Learning Council.

(3) Waiver requests must be accompanied by a quality improvement plan for approval by the Early Learning Council. The quality improvement plan will provide information including, but not limited to, how the program will meet the requirement for which a waiver is requested and a timeline for completing that plan.

(4) The Early Learning Council may withdraw approval of a waiver at any time, if deemed necessary to ensure the health, safety and well-being of children in the program.

(5) A waiver granted for any of the requirements does not negate the need for a waiver for other requirements.

(6) The granting of a waiver shall not set a precedent.

(7) Each request shall be evaluated on its own merits.

Stat. Auth.: ORS 326.425(7)
 Stats. Implemented: ORS 329.172
 Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0048

Reporting

Hubs shall ensure that all information and data that demonstrates that providers are meeting the program requirements are made available to the Division upon request, and in a manner as provided by the Division.

Stat. Auth.: ORS 326.425(7)
 Stats. Implemented: ORS 329.172
 Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0049

Suspected Abuse

Any provider or program staff subject to ORS 419B.005 to 419B.016 having reasonable cause to believe that any child with whom the provider or program staff comes into contact has suffered or is suffering from abuse or neglect, shall report or cause a report to be made in the manner required in ORS 419B.005 to 419B.015.

Stat. Auth.: ORS 326.425(7)
 Stats. Implemented: ORS 329.172
 Hist.: ODE 32-2016, f. & cert. ef. 5-3-16

581-019-0050

Definitions

(1) "Advisory Committee" means the Oregon Department of Education advisory committee for the prekindergarten program and the parent education program established by Chapter 684, Oregon Laws 1987.

(2) "Applicant" means a public or private nonsectarian organization which applies for parent education funds.

(3) "At-Risk Children" means children between 0 and eight years of age who are assessed by the criteria in OAR 581-019-0075.

(4) "Contractor" means an applicant which has been awarded state funds under the parent education program. Contractors may be local public or private organizations which are nonsectarian in their delivery of services.

(5) "Department" means the Department of Education.

(6) "Eligible Family" means any family with an at-risk child.

(7) "Family" means all persons living in the same household who are:

(a) Supported by the income of the parent(s), caretaker(s) or guardian(s);

(b) Related to the parents(s), caretakers or guardian(s) by blood or marriage or adoption.

(8) "Nonsectarian" means that no aspect of parent education program services will include any religious orientation.

(9) "Parent Education" means the statewide administrative activities carried out within the Department of Education to allocate, award, and monitor state funds appropriated to assist local parent education programs.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 329.175 & 329.195

Hist.: EB 11-1988, f. & cert. ef. 2-24-88

581-019-0055

Use of Grant Funds

(1) Contractors shall use grant funds to serve Oregon residents.

(2) Contractors must have established appropriate internal fiscal controls and fund accounting procedures to assure the proper disbursement of, and accounting for, all funds provided.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 329.175 & 329.195

Hist.: EB 11-1988, f. & cert. ef. 2-24-88

581-019-0060

Eligibility Criteria For Contract Applicants

(1) Public or nonsectarian organizations or consortia of organizations are eligible to apply for funding as a parent education program.

(2) No person in any parent education program shall be subjected to discrimination as defined in ORS 659.150(1).

(3) Applicants shall identify targeted groups, outreach methods, program components, and the qualifications of instructional staff.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 329.175 & 329.195

Hist.: EB 11-1988, f. & cert. ef. 2-24-88

581-019-0065

Proposal Review and Contract Award

(1) Funds shall be awarded on a competitive basis. Subject to available funds, continuation grants may be awarded on the basis of satisfactory performance.

(2) An applicant must make formal response using forms issued and established by the Department.

(3) The advisory committee will review the proposals and recommend to the State Superintendent of Public Instruction which proposals should be funded or rejected. The review committee may recommend alterations in the proposals. The committee will prioritize the proposals to the extent practicable, regionally based on percentages of unmet needs in order to distribute funds as widely as possible throughout the state.

(4) The final decisions regarding the parent education proposals will be made by the State Superintendent of Public Instruction.

(5) The Department shall notify successful applicants and shall provide to each of them a contract for signature. This contract must be signed by an official with authority to bind the applicant and must be returned to the Department prior to the award of any funds under this program.

(6) Any applicant not receiving funding may appeal for review to the State Board of Education. Such appeal must be in writing and mailed within 15 days of the date of the notice of non-funding.

(7) Funds appropriated for the program shall be used to establish and maintain new or expanded parent education programs and shall not be used to supplant any existing programs.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 329.175, 329.190 & 329.195

Hist.: EB 11-1988, f. & cert. ef. 2-24-88

581-019-0070

Program Design

(1) Programs shall provide parents with information on child development, discipline, communication, and strategies for preparing their children for school success. Programs may include a support element.

(2) Programs shall be conducted at times and with conditions appropriate for adult learners.

(3) Programs shall develop and use a system to impart parenting skills and information that reflect the needs of the population served and in keeping with the parent education program requirements established by the Department of Education.

(4) Programs shall demonstrate coordination with existing community resources including public schools, local Head Start programs, local health and welfare agencies, community colleges, and any other local parent education/support programs.

(5) Programs shall complete formative and summative self-evaluations in accordance with requirements established by the Department of Education.

(6) Programs may charge families for services based on their ability to pay. Programs will be required to document how fee schedules are established and how funds are used.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 329.175 & 329.195

Hist.: EB 11-1988, f. & cert. ef. 2-24-88

581-019-0075

Targeting of Services to Families

Programs must target families whose children ages 0-8 are at-risk of experiencing difficulty in school based on the following criteria:

(1) Single, step and dual career families;
(2) Low-income families;
(3) Families for whom English is a second language;
(4) Families who have experienced high mobility (e.g., military, migrant);

(5) Families whose children have high absenteeism in school;

(6) Families with a disruptive family environment (e.g., prison parent, chemically abusing parents);

(7) Families whose children have been assessed as developmentally at risk;

(8) Families of children with disabilities as defined by ORS 343.227;

(9) Minority families; and

(10) Families of adolescent parents.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 329.175 & 329.195

Hist.: EB 11-1988, f. & cert. ef. 2-24-88; ODE 26-2008, f. 10-23-08, cert. ef. 10-24-08

581-019-0078

Collect Data

Programs must collect data which documents the numbers of families served in each of the criteria categories listed in OAR 581-019-0075.

Stat. Auth.: ORS 684
Stats. Implemented: ORS 329.175 & 329.195
Hist.: EB 11-1988, f. & cert. ef. 2-24-88

581-019-0080

Suspected Abuse

If employees of the parent education program, in their official capacity, have reasonable cause to believe any child of a parent participant has suffered abuse or neglect, they shall report or cause a report to be made in the manner required in ORS 418.755.

Stat. Auth.: ORS 684
Stats. Implemented: ORS 329.175 & 329.195
Hist.: EB 11-1988, f. & cert. ef. 2-24-88

581-019-0100

Tax Credits for Student-Parent Programs and Child Development Programs

(1) The purpose of this rule is to define child development and student-parent programs that may qualify for tax credits authorized by ORS 315.234, including requirements for substantiation and use of contributions. The credit applies to tax years beginning on or after January 1, 1991, and before December 31, 2001.

(2) For the purposes of this rule, an approved child development program means a program which consists of an education component and a model day care component and which substantially meets the following standards:

(a) Offers a minimum of one full credit of sequential coursework in child development and parenthood education;

(b) Implements a curriculum on the realities of being a parent, interaction of work and family responsibilities, normal growth and development of infants and young children, discipline and guidance of children, children's safety, healthy prenatal care, and healthy parent-child relationships;

(c) Utilizes instructors with coursework in home economics education, early childhood education or a related field which provides knowledge and understanding of the above curriculum areas;

(d) Provides supervised child care center experiences with young children;

(e) Provides an on-site child development facility which meets health and safety standards and does not accommodate more than 30 full-time equivalent spaces for children;

(f) Maintains appropriate adult-child ratios to assure adequate supervision and optimal learning opportunities for children.

(3) For the purposes of this rule, an approved student-parent program means an educational program which consists of education for the student-parent, day care for the student-parent's child and which substantially meets the following standards:

(a) Provides a comprehensive high school program;

(b) Provides individual and group counseling services in the areas of personal and career development;

(c) Implements curriculum in life skills instruction in meeting basic needs, management of personal resources, interpersonal relationships, sexuality, and family interaction;

(d) Implements curriculum in child development and includes curriculum on the realities of being a parent, interaction of work and family responsibilities, normal growth and development of infants and young children, discipline and guidance of children, children's safety, healthy prenatal care, healthy parent-child relationships;

(e) Offers nutrition information and health services;

(f) Conducts an on-site child care center for the children of the student-parents;

(g) Provides transportation for student-parents and their children;

(h) Coordinates services with community social service agencies, and makes students aware of such services;

(i) Provides career and vocational assessment and planning.

(4) Donations for purposes under this rule shall be used to support, expand, or improve student-parent or child development programs within the district. Donations must not be used to supplant local school district, state, or federal funding. Donations must be credited to the year in which they are received. The credit

is allowable only for contributions made after the date of the Department of Education approval.

(5) Approved school district student-parent and child development/parenthood education programs must provide a copy of the receipts for an eligible donation to the Oregon Department of Education and to the donor. The receipt must specify the following:

(a) The school district number and name;

(b) An indication that the contribution was made to either the child development program or the student-parent program;

(c) Date the program was certified by the Department of Education;

(d) The dollar amount of the contribution;

(e) Name and address of the contributor; and

(f) The date the contribution was made.

(6) Programs which most closely meet or exceed the standards in sections (2) and (3) of this rule will be considered for approval by the Department. Approval of programs will be accomplished through a Request for Proposal (RFP) process. Up to 20 student-parent and up to 20 child development/parenthood education programs will be approved. Once selected, each program is considered approved through December 31, 2001. Only school districts, education service districts, and district consortia are eligible to apply.

Stat. Auth.: ORS 315.234 & 329.385

Stats. Implemented: ORS 315.234, 329.385, 329.395, 329.415 & 329.425

Hist.: EB 23-1991(Temp), f. 10-30-91, cert. ef. 11-1-91; EB 3-1993, f. & cert. ef. 1-13-93; EB 28-1995, f. & cert. ef. 12-11-95

DIVISION 20

SCHOOL IMPROVEMENT AND PROFESSIONAL DEVELOPMENT

581-020-0005

Pertaining to School Improvement and Professional Development

A School Improvement and Professional Development Program has been established to encourage the following:

(1) The development of educational goals for individual schools and school districts;

(2) The assessment of the educational progress of school programs and students;

(3) The expansion of professional growth and career opportunities for Oregon teachers; and

(4) The restructuring of the school workplace to provide teachers with responsibilities and authority commensurate with their status as professionals.

Stat. Auth.: ORS 896

Stats. Implemented: ORS 329.695

Hist.: EB 8-1988, f. & cert. ef. 1-15-88

581-020-0010

Definitions

The following definitions apply to Oregon Administrative Rules 581-020-0005 through 581-020-0050 unless the context requires otherwise:

(1) "Administrator" includes all persons whose duties require administrative certificates.

(2) "Educational goals" means a set of goals for educational performance, as formulated by site committees and local communities, and adopted by district school boards, according to provisions of ORS 336.705 through 336.780, to encourage greater accountability between schools and the community, and better to assess the effectiveness of educational programs, including the professional growth and career opportunity programs, described in ORS 336.705-780.

(3) "Index of teacher and learning conditions" means the system for the collection and analysis of relevant educational data by schools, districts, and the state for the purpose of assessing the educational effectiveness of schools and programs.

(4) "School Improvement and Professional Development Program" means a formal plan submitted by a school district and

approved by the Department of Education according to criteria specified in ORS 336.705–780.

(5) “School district” means a school district, an education service district, a state-operated school, or any legally constituted combination of such entities that submits an application under ORS 336.720.

(6) “Building site committee” means a 21st Century Schools Council as described in OAR 581-020-0130.

(7) “Teacher” means all certificated employees in the public schools or employed by an education service district who have direct responsibility for instruction, coordination of educational programs or supervision of teachers, and who are compensated for their services from public funds. “Teacher” does not include a school nurse as defined in ORS 342.455 or a person whose duties require an administrative certificate.

Stat. Auth.: ORS 336.705 - 336.780

Stats. Implemented: ORS 329.575 & 329.704

Hist.: EB 8-1988, f. & cert. ef. 1-15-88; EB 9-1990, f. & cert. ef. 1-30-90; ODE 9-1998, f. & cert. ef. 6-23-98

581-020-0015

Eligibility

A school district, an education service district, a state-operated school, or a combination of such entities may submit an application to the Department of Education to receive a School Improvement and Professional Development grant.

Stat. Auth.: ORS 336 & 896

Stats. Implemented: ORS 329.695

Hist.: EB 8-1988, f. & cert. ef. 1-15-88; EB 9-1990, f. & cert. ef. 1-30-90

581-020-0020

Grant Application

(1) Except for state-operated schools, the school district in its application shall certify that its proposal has been approved by the school board and is consistent with existing district policies, rules, and contracts bargained under ORS 243.650 to 243.782.

(2) The administration of grant programs under this rule shall be consistent with existing district policies, rules, and contracts bargained under ORS 243.650 to 243.782.

(3) The deadline for applications submitted by districts under ORS 336.705–336.780 shall be April 1 preceding the school year for which they are proposed. The Department of Education shall review all applications and shall approve or reject them no later than June 1 of the school year for which they are proposed.

(4) Distribution of grants-in-aid money through the School Improvement and Professional Development Program shall begin in the 1988–89 school year. Districts that qualify for grants under ORS 336.705–780 shall receive \$1,000 per year per each full-time equivalent teacher deemed eligible for this program.

(5) Subject to ORS 291.232 to 291.260, the State Superintendent of Public Instruction shall distribute grants-in-aid to eligible school districts so that at least three-quarters of the allocation due to each eligible district is received no later than February 1 of each fiscal year and the remainder when all required reports are filed with the Department of Education. If underpayments or overpayments result, adjustments shall be made in the following year.

(6) Grants under this program shall be effective for one or two years (fiscal year, July 1–June 30) and are renewable. Grants may be renewed subject to the evaluation, reapplication, approval by the Oregon Department of Education, and the legislative appropriation of funds.

(7) Nothing in this section is intended to make grants under this rule subject to collective bargaining.

Stat. Auth.: ORS 336 & 896

Stats. Implemented: ORS 329.709

Hist.: EB 8-1988, f. & cert. ef. 1-15-88; EB 9-1990, f. & cert. ef. 1-30-90

581-020-0025

Professional Growth, Career Opportunities, and Instructional Improvement

To be eligible for funding a district application shall define and provide a process by which eligible teachers are selected by a building site committee to receive additional professional growth

and career opportunities which may include, but are not limited to, service as a mentor teacher, supervision and instruction of student teachers, either in the classroom or as an adjunct faculty member at a school of education, curriculum development, service on a site committee, reimbursement for academic course work, opportunities for research in a teacher’s field or fields, programs to encourage peer observation and assistance programs, additional sabbaticals and other programs designed to encourage professional growth:

(1) All teachers in good standing shall be eligible for advance professional growth and career opportunities, according to criteria established by the building site committees. Those criteria shall include demonstration of the following:

(a) Mastery of teaching skills and subject matter knowledge;

(b) A commitment to personal and professional growth as a teacher;

(c) Active collaboration on professional matters with other faculty; and

(d) Active involvement in school and community affairs.

(2) In applying for such opportunities, teachers shall describe how such opportunities will further the goals of the schools in which the teachers are employed.

(3) Administrators may be eligible for additional professional growth and career opportunities according to criteria established by the building site committee, provided that their proposals are directly linked to enhancing their role as instructional leaders within their schools.

(4) Mini-grants for professional growth and career opportunities may be given for a period of time not to exceed one year.

(5) In exchange for assuming additional responsibilities a teacher approved for a professional growth and career opportunity shall be given the choice of receiving additional release time or additional compensation or a combination of both. However, release time shall not be used if to do so increases the work load of other teachers regularly employed by the school district.

Stat. Auth.: ORS 336 & 896

Stats. Implemented: ORS 329.695

Hist.: EB 8-1988, f. & cert. ef. 1-15-88; EB 9-1990, f. & cert. ef. 1-30-90

581-020-0030

Application

To be eligible for funding, a district’s application shall include the following:

(1) A description of a process to formulate and adopt district and individual school building educational goals so that such goals reflect input from a wide range of citizens in the community.

(2) A description of how the district will formulate and use indexes of teaching and learning conditions to measure progress according to those goals. The indexes of teaching and learning conditions may include, but are not limited to, such indicators as:

(a) Class size and teaching loads;

(b) A profile of the teaching and administrative personnel, including such characteristics as years of experience, rate of turnover and absenteeism;

(c) The frequency and nature of teacher misassignments;

(d) The socioeconomic status of the community;

(e) The ability and willingness of a school district to provide financial support for the schools;

(f) Measures of student progress as measured on school district or state assessments, or both;

(g) Attendance and drop out rates;

(h) Student conduct and disciplinary actions;

(i) Measure of student success in vocational, college, and other postsecondary programs; and

(j) Student expectations and attitudes toward learning.

(3) A description of how the proposed program will address the identified needs for professional growth and career opportunities of teachers in the district.

(4) Certification by the school district that none of the moneys received through ORS 336.705–336.780 shall be used to replace expenditures for existing programs for professional growth and career opportunities.

(5) A description of how the district will evaluate the effectiveness of its School Improvement and Professional Development grant, using educational goals and an index of teaching and learning conditions.

Stat. Auth.: ORS 336 & 896

Stats. Implemented: ORS 329.709

Hist.: EB 8-1988, f. & cert. ef. 1-15-88; EB 9-1990, f. & cert. ef. 1-30-90

581-020-0050

Evaluation

(1) A teacher or administrator who receives a grant under this program shall submit a written evaluation report to the building site committee. The building site committee may require additional evaluative information.

(2) The building site committee who receives a mini-grant under this program shall submit a written evaluation report to the local district superintendent to be included in an evaluation report to the Oregon Department of Education.

Stat. Auth.: ORS 336 & 896

Stats. Implemented: ORS 329.735

Hist.: EB 8-1988, f. & cert. ef. 1-15-88; EB 9-1990, f. & cert. ef. 1-30-90

581-020-0055

Professional Development Centers

(1) To administer ORS 336.705 to 336.780, the Department of Education shall dedicate a portion of its funds, not to exceed ten percent of the total appropriate for purposes of ORS 336.705 to 336.780 to provide for the establishment of professional development centers to:

(a) Assist school districts, teachers, site committee members, and other to formulate school improvement and professional development goals;

(b) Assist school districts, teachers, site committee members, and other to formulate and use indices of teaching and learning conditions;

(c) Provide additional professional growth and career opportunities for teachers; and

(d) Carry out other purposes of ORS 336.705–336.780.

(2) Contracts under this program shall be effective for one year and are renewable. Contracts may be renewed subject to the evaluation, reapplication, and approval by the Oregon Department of Education, and the legislative appropriation of funds.

(3) No contract monies shall be used to purchase capital items.

(4) No contract monies shall be used to replace expenditures for school improvement and professional growth opportunities.

Stat. Auth.: ORS 336

Stats. Implemented: ORS 329.695

Hist.: EB 4-1990, f. & cert. ef. 1-26-90

581-020-0100

Pertaining to 21st Century Schools

The 21st Century Schools Program has been established to encourage:

(1) The restructuring of school operations and formal relationships among teachers, administrators, and local citizens, including but not limited to modifications of the following:

(a) The length and structure of the school day and the school year;

(b) Curriculum requirements;

(c) Graduation requirements;

(d) The certification, assignment, and formal responsibilities of teachers, administrators, and other school personnel;

(e) State statutes and rules and local policies and agreements relating to educational practices, with the exception of those that affect health, safety, or constitutional rights under state or federal law;

(f) The formal and informal relationships between school districts, and other entities including community colleges, four-year colleges and universities, businesses, and other institutions; and

(g) The integration of traditional services to grades kindergarten through 12 with public and privately sponsored social services,

such as early childhood education, day care, and assistance for teenage parents and other at-risk youth.

(2) Educators, school districts, and local citizens to establish measurable goals for educational attainment and increased expectations for student performance, including but not limited to improvement in such performance measures as:

(a) Student dropout rates;

(b) District, state, and national standardized tests and other assessments of student learning and educational progress;

(c) The extent and nature of parental involvement in school activities;

(d) Student conduct and disciplinary actions;

(e) Student expectations and attitudes towards learning; and

(f) Student success in college, vocational, and other postsecondary programs.

Stat. Auth.: ORS 840

Stats. Implemented: ORS 329.555

Hist.: EB 5-1990, f. & cert. ef. 1-26-90

581-020-0105

Definitions

The following definitions apply to Oregon Administrative Rules 581-020-0100 through 0135 unless the context requires otherwise:

(1) “Administrator” includes all persons whose duties require administrative certificates.

(2) “Building site committee” means a 21st Century Schools Council as described in OAR 581-020-0130.

(3) “Department” means the Department of Education.

(4) “District planning committee” means a body composed of teachers, administrators, school board members, and public members, constituted under OAR 581-020-0125, for the purpose of sponsoring programs submitted and approved under the 21st Century Schools Program.

(5) “School district” means a school district, an education service district, a state-operated school, or any legally constituted combination of such entities that sponsors an eligible program and submits an application under OAR 581-020-0125.

(6) “State Board” means the State Board of Education.

(7) “Teacher” means all certificated employees of a school district who have direct responsibility for instruction, coordination of educational programs, or supervision of teachers and who are compensated for their services from public funds. “Teacher” does not include a school nurse, as defined in ORS 342.455, or a person whose duties require an administrative certificate.

Stat. Auth.: ORS 840

Stats. Implemented: ORS 329.575 & 329.704

Hist.: EB 5-1990, f. & cert. ef. 1-26-90; ODE 9-1998, f. & cert. ef. 6-23-98

581-020-0110

Eligibility

(1) Any district school board is eligible to submit an application for the 21st Century Schools Program.

(2) Applications may be made on behalf of the following:

(a) An individual school building;

(b) Two or more school buildings within a district;

(c) All school buildings within a district; or

(d) A consortium consisting of two or more school districts.

Stat. Auth.: ORS 840

Stats. Implemented: ORS 329.565

Hist.: EB 5-1990, f. & cert. ef. 1-26-90

581-020-0115

Application

(1) All applications for the 21st Century Schools Program shall be submitted to the Department of Education, and shall contain the following:

(a) A letter of support from the school board, and the exclusive representative of teachers in the buildings affected if waiver of a collective bargaining obligation over mandatory subjects of collective bargaining, a right or obligation under a collective bargaining contract or any right under ORS 243.650 to

243.782, 342.513, 342.545, 342.553, 342.608, 342.610, 342.613 or 342.650 is required;

(b) An abstract of the nature and objectives of the project and a description of the changes projected to occur in the school or district, or any combination thereof, as a result of the proposal;

(c) A description of the goals and major activities to be carried out as part of the project, including but not limited to the nature and extent of the restructuring of school operations and formal relationships as described in OAR 581-020-0100. The application shall also describe the process used to identify the goals and major activities of the project;

(d) A list of the major student learning and educational outcomes that are projected to occur as a result of the project, including but not limited to:

(A) The length and structure of the school day and the school year;

(B) Curriculum requirements;

(C) Graduation requirements;

(D) The certification, assignment, and formal responsibilities of teachers, administrators, and other school personnel;

(E) State statutes and rules and local policies and agreements relating to educational practices, with the exception of those that affect health, safety, or constitutional rights under state or federal law;

(F) The formal and informal relationships between the school district; and other entities including community colleges, four-year colleges and universities, businesses, and other institutions;

(G) The integration of traditional services to grades kindergarten through 12 with public and privately sponsored social services, such as early childhood education, day care, and assistance for teenage parents and other at-risk youth;

(H) Student dropout rates;

(I) District, state, and national standardized tests and other assessments of student learning and educational progress;

(J) The extent and nature of parental involvement in school activities;

(K) Student conduct and disciplinary actions;

(L) Student expectations and attitudes towards learning; and

(M) Student success in college, vocational, and other postsecondary programs.

(e) A description of all statutes and rules to be modified or waived to complete the activities of the project. For each provision, the application shall include a statement describing why the modification or waiver is warranted;

(f) A description of all district rules and agreements that are to be modified or waived. All such provisions shall be approved by a majority vote of each building site committee, the affirmative vote of at least two-thirds of the certificated teachers in the affected school buildings and the approval of the local district school board, and the exclusive representative of the teachers if waiver of a collective bargaining obligation over mandatory subjects of collective bargaining, a right or obligation under a collective bargaining contract or any right under ORS 243.650 to 243.782, 342.513, 342.545, 342.553, 342.608, 342.610, 342.613, 342.650;

(g) A budget plan for the project and additional anticipated sources of funding, if any, including private grants and contributions;

(h) A description of the process by which data will be collected and assessed to measure student learning and other educational performance attributable to the project;

(i) Letters expressing support and a willingness to participate from community colleges and other postsecondary institutions, where appropriate;

(j) The number of school years for which approval is sought. The period shall be no less than three years and no more than five years; and

(k) A description of how the district intends to share and disseminate to other school districts those practices that prove effective.

(2) Applications shall contain all the components of section (1) of this rule to be eligible for approval.

(3) The application may also contain written statements of support from parents, citizens, local businesses, and other interested individuals and organizations.

(4) A district shall submit its application to the Department of Education.

(5) Within 60 days districts submitting applications and the public will be given an opportunity to comment on the applications.

(6) No later than 90 days after receipt of an application by the Department of Education, the State Board of Education shall approve or deny any application submitted under this Act.

(7) Along with its annual report, a district may submit proposed amendments to its approved program describing additional statutes, rules, or local policies and agreements that it proposes to waive. Such amendments must be accompanied by a statement of support from the local school board, the exclusive representative of teachers if waiver of a collective bargaining obligation over mandatory subjects of collective bargaining, a right or obligation over mandatory subjects of collective bargaining, a right or obligation under a collective bargaining contract or any right under ORS 243.650 to 243.782, 342.513, 342.545, 342.553, 342.608, 342.610, 342.613 or 342.650 is required, and each building site committee involved in the project. The advisory committee may recommend approval of such amendments upon a finding of satisfactory progress by the district and a determination that all other provisions of this Act have been met.

(8) A district may terminate its application by submitting to the board a request for termination that has been approved by the school board, the exclusive representative of teachers if waiver of a collective bargaining obligation over mandatory subjects of collective bargaining, a right or obligation under a collective bargaining contract or any right under ORS 243.650 to 243.782, 342.513, 342.545, 342.553, 342.608, 342.610, 342.613, or 342.650 is required, and the building site committees.

(9) Applications under this program shall be effective for the period of time identified in the application and are renewable. Applications may be renewed subject to reapplication, evaluation, and the approval by the Board of Education.

Stat. Auth.: ORS 840, OL 1989

Stats. Implemented: ORS 329.575 & 329.704

Hist.: EB 5-1990, f. & cert. ef. 1-26-90; EB 13-1993(Temp), f. 3-25-93, cert. ef. 3-26-93; EB 24-1993, f. & cert. ef. 7-30-93; ODE 9-1998, f. & cert. ef. 6-23-98

581-020-0120

State Advisory Committee

(1) The School Improvement and Professional Development Advisory Committee, appointed by the State Board of Education under ORS 336.730, shall propose rules, for adoption by the State Board, to govern the submission and approval of applications for the 21st Century Schools Program.

(2) The advisory committee shall review all applications submitted under this Act and recommend applications for approval by the State Board including but not limited to the following criteria:

(a) The existence of significant, measurable, and achievable goals based on student performance;

(b) The extent to which the district has demonstrated the need for the requested modifications and waiver of specified statutes and rules and local policies and agreements;

(c) The extent to which the application proposes significant changes in the structure of school operations and the formal relationships among teachers, administrators, and public citizens, as described in OAR 581-020-0100;

(d) The clarity of purpose and values underlying the proposal;

(e) Evidence of thoroughness in identifying, developing, and projecting implementation of the proposed activities;

(f) Evidence of potential transferability of the proposed activities and practices that are judged to be successful;

(g) A determination that modification or waiver of statutes and rules and local policies and agreements will not be detrimental to the health, safety, or constitutional rights of students, teachers, administrators, or the public under state or federal law; and

(h) A demonstration of support and commitment from all parties to support and faithfully implement the proposal.

(3) The advisory committee may suggest modifications in submitted applications, subject to the approval of the school board, the exclusive representative of teachers and each building site committee involved in the project.

(4) The State Board shall consider the recommendations of the advisory committee and make the final decisions on approval of the applications, using the criteria contained in section (2) of this rule. Before making these decisions, the State Board shall allow opportunity for comment by persons submitting the applications and by the public.

Stat. Auth.: ORS 840

Stats. Implemented: ORS 329.700

Hist.: EB 5-1990, f. & cert. ef. 1-26-90

581-020-0125

District Planning Committee

(1) If more than one school building is part of an application, the building site committees may elect to establish a district planning committee to facilitate the development of its application. A district planning committee constituted under this Act shall consist of:

(a) Administrators and at least one school board member to be chosen by the school board;

(b) Teachers, chosen by the exclusive representative, in a number equal to those appointed under subsection (1)(a) of this rule; and

(c) At least three public members, chosen jointly by the other members of the committee.

(2) To participate in the 21st Century Schools Program, and prior to submission of an application by the school board, a school district shall have accomplished the following:

(a) Identified the school building or buildings and, if appropriate, the school district or districts on whose behalf the application is submitted;

(b) Established, in each school building affected by the proposal, a building site committee;

(c) Agreed, at the direction of the building site committees and, if applicable, the district planning committee, upon the following:

(A) The major activities to be carried out as part of the project, including but not limited to the nature and extent of the restructuring of school operations and formal relationships;

(B) The specified measure of student learning and educational outcomes for each building affected by the application; and

(C) The process by which each building site committee and, where applicable, the district planning committee will collect data and assess the progress and final performance of its program.

(3) The local district school board shall be responsible for submitting the application and certifying that all appropriate requirements have been met.

Stat. Auth.: ORS 840

Stats. Implemented: ORS 329.705

Hist.: EB 5-1990, f. & cert. ef. 1-26-90

581-020-0130

21st Century Schools Council

(1) Each school site shall establish a 21st Century Schools Council (site council). The duties of the site council shall include, but not be limited to:

(a) The development of plans to improve the professional growth of the school's staff;

(b) The improvement of the school's instructional program;

(c) The development and coordination of plans for the implementation of programs under Oregon's Education Act for the 21st Century at the school; and

(d) The administration of grants-in-aid for the professional development of teachers and classified district employees.

(2) Members of the site council shall include licensed and classified staff from the building, parents of students attending the school, the building administrator or the administrator's designee, and any other members as determined to be appropriate by the site

council, including but not limited to community members, students and business leaders. Site council composition shall be as follows:

(a) Neither parents nor teachers shall make up a majority of the site council;

(b) At least one member shall be a classified employee of the district;

(c) One member shall be the building administrator or the administrator's designee.

(3) Members shall be selected for the site council as follows:

(a) Licensed staff shall elect their representatives to the site council;

(b) Classified staff shall elect their representative(s) to the site council;

(c) Parents shall be selected by a process to be defined by the local school board; and

(d) Other representatives shall be selected by the council.

(4) If a school council cannot meet the requirements for composition as described in this rule or determines that the needs of the school require a different composition, the district school board may establish the school site council in a manner that best meets the needs of the district.

(5) All site council meetings shall be subject to the open meeting law pursuant to ORS 192.610 to 192.690.

(6) Nothing in this rule shall interfere with the duties, responsibilities and rights of duly elected district school boards.

Stat. Auth.: ORS 840

Stats. Implemented: ORS 329.575 & 329.704

Hist.: EB 5-1990, f. & cert. ef. 1-26-90; ODE 9-1998, f. & cert. ef. 6-23-98

581-020-0135

Evaluation and Annual Reports

(1) Each district that receives approval for a project under the 21st Century Schools Program shall submit an annual report to the advisory committee appointed under ORS 336.730 and to the local community. The report shall include specific data that reflect the nature and extent of changes in student learning and other performance as described in its application.

(2) If, based upon these annual reports, the advisory committee determines that a district's progress is unsatisfactory, the advisory committee may recommend to the State Board that the district be placed on probation for a one-year period. During the probationary year, the district shall be eligible for special assistance from the Department of Education. During the probationary year, the district shall also prepare a contingency plan in the event it is ordered to terminate its project prematurely.

(3) If, after the probationary period described in section (2) of this rule, the district's progress is still unsatisfactory in the judgment of the advisory committee, the advisory committee may recommend that the State Board terminate the project and implement its plan for returning to compliance with previously waived statutes, rules, and local policies and agreements.

Stat. Auth.: ORS 840

Stats. Implemented: ORS 329.600

Hist.: EB 5-1990, f. & cert. ef. 1-26-90

581-020-0200

School Facility Improvement Grants

(1) Any school district, which for purposes of this rule includes a common or union high school district, an education service district or any combination thereof, may apply for a School Facility Improvement Grant to construct or maintain public school facilities. No school district may submit more than one application on behalf of the individual school district and one application in conjunction with other school districts.

(2) Grant applications shall be submitted to the State Superintendent of Public Instruction by May 31. The application shall state:

(a) The specific purpose of the grant which may include, for new or existing facilities:

(A) Land acquisition;

(B) Planning and design;

(C) Construction;

(D) Remodeling;

- (E) Reduction of energy consumption;
- (F) Alternation;
- (G) Furnishing and equipping;
- (H) Repair;
- (I) Replacement; and
- (J) Other capital maintenance, but shall not include cleaning.
- (b) The need for the construction or maintenance, including documentation of applicable factors such as:
 - (A) Age of the facility for which maintenance or construction is proposed;
 - (B) The degree of overcrowding;
 - (C) The absence of facilities necessary to accomplish the educational goals of the district and state;
 - (D) Deterioration of existing facilities which has the potential of affecting the health and safety of students;
 - (E) Damage or destruction of existing facilities due to natural disaster;
 - (F) Compliance with the Americans with Disabilities Act; and
 - (G) How the construction or maintenance will facilitate implementation of the educational goals of House Bill 3565 enacted by the 1991 Legislative Assembly.
- (c) The amount requested and how the grant monies, if awarded, shall be matched with local funds. Grants shall be matched by at least one local dollar from the grant applicant for every four state dollars;
- (d) The time period when the grant funds will be needed, including a statement of any detrimental effect that may be caused by delay; or in the alternative, a statement that the time period is flexible.
- (3) Grants shall not exceed \$500,000 in any biennium to any school district.
- (4) In addition, a combination of districts may submit a joint grant application in an amount not to exceed \$500,000.
- (5) A district or combination thereof may apply in subsequent bienniums for additional grants for the same facility.
- (6) Grants will be screened on the following criteria:
 - (a) Age of the school facilities;
 - (b) Degree of overcrowding;
 - (c) Potential student health and safety concerns due to deterioration of school facilities or natural disasters;
 - (d) Reduction of energy consumption; and
 - (e) The need for additional, new, replacement, or updated facilities in order to:
 - (A) Comply with the American with Disabilities Act; or
 - (B) Accomplish educational goals for the district and state, specifically the goals set forth in HB 3565.
- (7) In the event that meritorious grant applications exceed the amount of grant funds available, the Superintendent of Public Instruction shall place all of the applications, which contain the information required under section (2) of this rule and which are judged meritorious by the criteria set forth in section (6) of this rule, in a pool from which applications will be selected on a random basis. Applications shall be ranked in order of their selection and grants shall be awarded in numerical order up to a total of \$5 million.
- (8) The Superintendent of Public Instruction shall award School Facility Improvement Grants from funds appropriated to the School Facility Improvement Fund subject to availability of funding. If the amount of funding is less than \$5 million, grant awards will be reduced on a pro rata basis. Notification of grant awards shall be made within 45 days after the closing date for grant applications.
- (9) The decision of the Superintendent shall be final.

Stat. Auth.: ORS 327.300 - 327.330

Stats. Implemented: ORS 327.300, 327.310, 327.320 & 327.330

Hist.: EB 3-1994, f. & cert. ef. 4-29-94; EB 9-1994(Temp), f. & cert. ef. 6-28-94

581-020-0250

Physical Education Grants

- (1) The following definitions apply to this rule:

(a) "Number of minutes" means the number of minutes of physical education instruction that is actually provided to all students kindergarten through grade 8 each school week.

(b) "Physical capacity" means the space, indoors and out, available at the school to provide the prescribed number of minutes per week at a class size that promotes effective practices consistent with the outcomes expected of the instructional programs.

- (2) Beginning with the 2017–2018 school year:

(a) Kindergarten through grade 5 students shall participate in at least 150 minutes of physical education during each school week throughout the school year; and

(b) Students in grades 6–8 shall participate in at least 225 minutes of physical education during each school week.

(3) The Department of Education shall distribute Physical Education K–8 Expansion grants for activities related to meeting the physical education requirements for instruction of all students in kindergarten through grade 8 described in subsection (2) of this rule.

- (4) The grants may be used to:

(a) Hire teachers who are licensed to teach in physical education or who are allowed to teach physical education within the scope of the endorsements on their license; and

(b) Provide in-service training to teachers, not specifically endorsed in physical education, on the instruction of physical education, the academic content standards for physical education and the minimum number of minutes requirement using evidence-based programs.

(5) School districts and public charter schools shall identify in the grant application of the district or school the goals of the district or school for increases in the number minutes per week for the entire school year and shall outline how the district or school plans to use the resources provided from the grant to reach the performance goals.

(6) In evaluating the grant applications, the Department shall consider:

(a) The physical capacity readiness of the district or public charter school to implement the goals set by the district or school for increases in physical education instruction;

(b) The amount of teacher support within the school where the grant will be used;

- (c) The activities identified to meet the stated goals;

(d) Consistency with the district's Continuous Improvement Plan; and

- (e) Consistency with the district's Wellness Plan.

(7) Each district or public charter school shall account for the grant amounts it receives, and shall apply these amounts to pay for activities described in the district or school's grant application.

(8) Each district or public charter school may use the grant funds only for schools that offer kindergarten through grade 8 or a combination of those grades and only for those purposes described in the approved district or school application.

(9) A district or public charter school may apply for a second year continuation grant. In addition to the criteria listed in subsection (6) of this rule, the department in evaluating an application for a second year continuation grant shall consider whether the district or school has shown continued commitment and fidelity to the district's or school's application from the prior year.

(10) To receive a grant under this rule, the district or public charter school shall agree to continue to offer, after the time period of the grant, the required number of minutes of physical education instruction described in subsection (2) of this rule at those schools for which the district or school received the grant funds.

(11) The State Superintendent of Public Instruction shall resolve any issues arising from the administration of the School Improvement Fund grants not specifically addressed by this rule and the Superintendent's determination shall be final.

Stat. Auth.: ORS 326.051

Stats. Implemented: Sec. 10, ch. 839, OL 2007

Hist.: ODE 29-2007, f. & cert. ef. 12-12-07

581-020-0500

OVSD Definition

(1) The Oregon Virtual School District shall undertake efforts for a sustainable framework for K–12 virtual learning that enhances student achievement by providing resources with guidelines for delivery. Resources may include, but are not limited to, digital instructional content, complete courses, materials for teacher implementation, online communication systems for instruction and teacher professional development and training.

(2) The OVSD Framework is based on the legislative direction of an equitable opportunity for all students' access to online resources, without regard to social and economic status. Resources are intended to be available for all School Districts and students for the purpose of enriching student Education. A sustainable framework includes the components of creating standards while developing online instructional resources. OVSD resources are available to support public education providers to implement online instruction to enhance distance learning and supplement classroom instruction. Participation in the OVSD program is voluntary for Oregon Educational Service Districts, School Districts and Schools.

Stat. Auth.: ORS 319.840, 326.051

Stats. Implemented: ORS 319.840

Hist.: ODE 14-2006, f. 10-23-06, cert. ef. 10-24-06

581-020-0505

Online School Definition

Public school, public instructional program, or ESD, providing learning opportunities for publicly enrolled students via the Internet or other electronic network. Instruction should satisfy Oregon content, teaching standards and accreditation rules. Online programs and schools are governed by their school district guidelines for operations and education delivery.

Stat. Auth.: ORS 319.840, 326.051

Stats. Implemented: ORS 319.840

Hist.: ODE 14-2006, f. 10-23-06, cert. ef. 10-24-06

581-020-0510

Oregon Teacher

Teaching CORE classes in Oregon requires State licensure as well as teaching in the content area of approval as outlined by NCLB. This applies to all public schools and is defined in OAR 584-005-0005 #74, 584-005-0005 #21 and ORS 342.120 for Charter School instruction. All instructors must be licensed by the Teachers Standards and Practices Commission and highly qualified as defined by TSPC.

Stat. Auth.: ORS 319.840, 326.051

Stats. Implemented: ORS 319.840

Hist.: ODE 14-2006, f. 10-23-06, cert. ef. 10-24-06

581-020-0515

Oregon Classroom Content

(1) Content should be aligned with Oregon's Common Curriculum Goals, Content Standards, and Essential Learning Skills. Adoption of content for instruction is governed by school Districts subject to Oregon Revised Statutes and Oregon Administrative Rules.

(2) OVSD will offer content aligned with state standards. The use of OVSD resources requires districts to conform to OAR division 22 Standards for public elementary and secondary schools.

Stat. Auth.: ORS 319.840, 326.051

Stats. Implemented: ORS 319.840

Hist.: ODE 14-2006, f. 10-23-06, cert. ef. 10-24-06

581-020-0520

Required School District Guidelines for Digital Instruction

Public Providers of online learning using OVSD resources must adopt guidelines in the following areas.

(1) Student/Teacher Ratio. Online learning providers are required to have guidelines in place for reasonable student to instructor ratios that allow for regular, individualized interaction with instructors.

(2) Student Teacher Interaction. Online learning providers are required to have guidelines in place for reasonable student to instructor communication that allow for, individualized interaction

with instructors as needed. Communication includes, but is not limited to, electronic mail, online discussion groups, telephone interaction and face to face discussions between teacher and student.

(3) Timeframe for Teacher Response to Student Questions. Online learning providers are required to have guidelines in place for the time and process that teachers will provide prompt response to student inquiries and requests for assistance.

(4) Student Standards. Online learning providers are required to have guidelines in place for student conduct and acceptable use of public school resources in the delivery of online instruction. The administrative implementation is governed by individual school district guidelines.

(5) Type of Courses. Courses offered are governed by individual school district guidelines, including, but not limited to, courses meeting requirements for high school diploma, electives as well as supplementary instruction. An example of supplementary instruction could be Advanced Placement preparation instruction.

(6) Amount of Credit Allowed. The amount of online instruction, and the corresponding credit, provided to a student is under the jurisdiction of the resident school district. Districts must accept transfer grades by accredited institutions.

(7) Student Eligibility for Courses. When applying towards credit the student's resident school district sets the eligibility requirements for district purchased online teaching services. Individual private purchase of courses by an Oregon resident is at the discretion of the parent or guardian and subject to resident school district guidelines for credit towards graduation. Use of Digital Courses and Content are subject to School District guidelines.

(8) Teacher Professional Development. Online Learning Providers are required to have policies for Teacher professional development. Teachers need to have appropriate training for the delivery of online instruction. Providers receiving public support must maintain Oregon teaching licensure for all teachers consistent with TSPC professional development requirements.

Stat. Auth.: ORS 319.840, 326.051

Stats. Implemented: ORS 319.840

Hist.: ODE 14-2006, f. 10-23-06, cert. ef. 10-24-06

581-020-0531

Definitions

The following definitions apply to 581-020-0530 to 581-020-0541:

(1) "Comprehensive Improvement Plan" or "CIP" refers to a school district's improvement plan created using the Indistar online planning tool.

(2) "District Improvement Partnership" is a formalized agreement to provide technical, adaptive and financial support to eligible and selected school districts.

(3) "School district" means a common or union high school district.

Stat. Auth.: ORS 327.800

Stats Implemented: ORS 327.800 & 329.105

Hist.: ODE 20-2016, f. & cert. ef. 3-22-16

581-020-0534

Eligibility

To be eligible for selection as District Improvement Partnership district:

(1) The district must have 300 or more students enrolled in the district on a date specified by the Department; and

(2) Demonstrate a history of low performance as defined as "below state average" in the following metrics:

(a) 3rd grade reading achievement for all students as determined by a statewide standardized assessment;

(b) 3rd grade reading achievement for student subgroups as determined by a statewide standardized assessment;

(c) 4th grade through 8th grade reading growth for all students as determined by a statewide standardized assessment;

(d) 4th grade through 8th grade reading growth for student subgroups as determined by a statewide standardized assessment;

(e) 4th grade through 8th grade math growth for all students as determined by a statewide standardized assessment;

- (f) 4th grade through 8th grade math growth for student subgroups as determined by a statewide standardized assessment;
 - (g) 9th grade chronic absenteeism; and
 - (h) 5-year cohort graduation rates.
- (3) Data used by the Department to select school districts may be from different school years but must by the best data available as identified by the Department.

Stat. Auth.: ORS 327.800
 Stats Implemented: ORS 327.800 & 329.105
 Hist.: ODE 20-2016, f. & cert. ef. 3-22-16

581-020-0537

Criteria

(1) The Department of Education shall determine eligible District Improvement Partnership districts by screening for the lowest 5%, or approximately ten districts, using the metrics identified in OAR 581-020-0533.

(2) When selecting districts, the Department shall further consider the district's willingness to engage with the Department and the following activities:

- (a) Participation in a readiness assessment;
- (b) A district needs assessment;
- (c) Analysis of the needs assessment;
- (d) CIP revision support (outside of the predetermined ODE monitoring timeline) based on needs assessment findings to clearly articulate (i) priority improvement interventions, (ii) leading indicators and success metrics, and (iii) lagging indicators and success metrics, (iv) improvement timelines and budget with activities scheduled to begin during the winter or spring of 2016. The CIP must be approved by the Department;

(e) The development and institution of an internal (district-run) quarterly routine to monitor improvement initiative attending to leading and lagging success metrics;

(f) Prepare quarterly monitoring reports based on the district routine described in paragraph (d) of this subsection; and

- (g) Meet periodically with the Department to review progress.

(3) Based on the considerations described in this rule, the Department shall select and provide financial resources for a number of or all of the eligible and identified District Improvement Partnership districts for the purpose of completing the activities identified in subsection (2) of this rule.

Stat. Auth.: ORS 327.800
 Stats Implemented: ORS 327.800 & 329.105
 Hist.: ODE 20-2016, f. & cert. ef. 3-22-16

581-020-0540

Funding

(1) The Department of Education shall determine and support District Improvement Partnerships during the 2015-2017 biennium.

(2) The Department shall distribute funding to districts in three stages of activities:

- (a) Stage 1: District Needs Assessment;
- (b) Stage 2: Approved CIP improvement activity start-up funding;

(c) Stage 3: Continued improvement funding aligned to quality review analysis;

(3) The Department shall determine funding for each phase as follows:

- (a) Stage 1: up to \$25,000 per district
- (b) Stages 2 and 3: formula grant based on estimated improvement planning and implementation activities (up to \$400,000, total, per district per year of the biennium).

Stat. Auth.: ORS 327.800
 Stats Implemented: ORS 327.800 & 329.105
 Hist.: ODE 20-2016, f. & cert. ef. 3-22-16

581-020-0542

Reporting and Monitoring

(1) Districts Improvement Partnership districts shall:

(a) Submit results of the district needs assessment to the Department of Education for review;

(b) Submit a revised Comprehensive Improvement Plan, informed by the district needs assessment, that includes leading

and lagging indicators for no more than three district priority interventions;

(c) Submit quarterly district assessment data to ODE including, but not limited to:

- (A) Percentage of students meeting standards for reading;
- (B) Percentage of students meeting standards for math;
- (C) Student attendance data; and
- (D) An updated budget for the district.

(2) Annually, districts will submit updated Comprehensive Improvement Plans aligned to reflect progress and needs of the district for review and approval by the Department.

(3) In the event that participating districts fail to adhere to the aforementioned monitoring or reporting elements or in the event that adequate progress towards meeting goals is not met shall freeze funds available under the program until reports are received and adequate adjustments are made.

Stat. Auth.: ORS 327.800
 Stats Implemented: ORS 327.800 & 329.105
 Hist.: ODE 20-2016, f. & cert. ef. 3-22-16

581-020-0600

Definitions

The following definitions apply to OAR 581-020-0600 to 581-020-0615:

(1) "Current ELL student" means a student who is enrolled as an English language learner program in Oregon during the school year.

(2) "English language learner" or "ELL" means a student who has limited English language proficiency because English is not the native language of the student or the student comes from an environment where a language other than English has had a significant impact on the student's level of English language proficiency.

(3) "Former ELL student" means a student who was previously enrolled in an English language learner program in Oregon.

(4) "Percentage of students in poverty" means the percentage of students in poverty using the number of students in poverty as calculated under OAR 581-023-0102 for purposes of calculation of the State School Fund distribution.

(5) "School district" means a common or union high school district.

Stat. Auth.: Sec. 3, ch. 604, OL 2015 (Enrolled HB 3499)
 Stats. Implemented: ORS 339.079 & Sec. 3, ch. 604, OL 2015 (Enrolled HB 3499)
 Hist.: ODE 7-2016, f. & cert. ef. 2-5-16

581-020-0603

Program

(1) The Department of Education through the ELL District and School Improvement program shall:

(a) Improve ELL student progress indicators including high school graduation rates and English language proficiency.

(b) Identify school districts that are not meeting objectives and the needs of ELL students, taking into account the specific learning challenges and demographics of the students.

(c) Collaborate with selected districts to better meet objectives and the needs of ELL students.

(d) Partner with identified ELL transformation and target districts, to ensure that those districts achieve expected growth in student progress indicators, and the expected benchmarks for student progress indicators that an identified district is expected to meet within four years of identification.

(e) In consultation with ELL transformation and target districts design and implement an accountability system of progressive interventions for the school districts.

(f) Direct transformation and target school districts on how to expend moneys received under ORS 327.013(1)(c)(A)(ii) (ELL weight) for up to three years, for identified districts that have not met the expected growth in student progress indicators, and the expected benchmarks for student progress indicators. The direction on expenditure of moneys for school districts identified as ELL transformation or target districts in 2016 will first apply to monies received by those school districts from the ELL weight on or after July 1, 2020.

(2) The Department of Education shall identify school districts that are:

- (a) ELL transformation districts that are in need of progressive interventions and technical assistance; and
 - (b) ELL target districts that are in need of technical assistance.
- (3) If a school district is identified as an ELL transformation or target district the district shall remain as such for four years.

Stat. Auth.: Sec. 3, ch. 604, OL 2015 (Enrolled HB 3499)

Stats. Implemented: ORS 339.079 & Sec. 3, ch. 604, OL 2015 (Enrolled HB 3499)

Hist.: ODE 7-2016, f. & cert. ef. 2-5-16

581-020-0606

District Eligibility and Selection

(1) To be eligible for selection as an ELL transformation or target district, a district must have enrolled 20 or more English Language Learners on a date specified by the Department. School districts with fewer than 20 English Language Learners will be eligible for other regionally based services and supports provided by the Department.

(2) A public charter school is not eligible for selection as a ELL transformation or target district. However, a public charter school may be selected by the Department as a school within an identified ELL transformation or target district for interventions and technical assistance.

Stat. Auth.: Sec. 3, ch. 604, OL 2015 (Enrolled HB 3499)

Stats. Implemented: ORS 339.079 & Sec. 3, ch. 604, OL 2015 (Enrolled HB 3499)

Hist.: ODE 7-2016, f. & cert. ef. 2-5-16

581-020-0609

District Selection

(1) The Department shall identify school districts that are not meeting objectives and needs of ELL students, taking into consideration the specific learning challenges and demographics of the students. The Department shall consider whether the district has demonstrated a history of not meeting objectives and needs of ELL students as compared to other districts relating to ELL students.

(2) To identify school districts that are not meeting objectives and needs of ELL students, the Department shall consider the following student progress indicators in identifying the school districts in need of improvement:

(a) The cohort 5 year graduation rate for current and former ELL students;

(b) The academic growth of current and former ELL students in grades 6, 7 and 8 as measured by statewide standardized assessments;

(c) The growth in language acquisition of current ELL students in grades 1 through 8 as measured by the English Language Proficiency Assessment (ELPA);

(d) The growth in language acquisition of current ELL students in grades 10 through 12, combined as measured by the English Language Proficiency Assessment (ELPA); and

(e) Percentage of former ELL students who enroll in a post-secondary institutions after graduation from the district.

(3) The Department shall also consider the needs of the district by considering learning challenges and demographic information of students enrolled in the district including but not limited to:

(a) The percentage of current and former ELL students as a percent of all students in the district;

(b) The percentage of all students in poverty as calculated using the district small area income and poverty estimate (SAIPE);

(c) The percentage of current and former ELL students who are economically disadvantaged;

(d) The percentage of current and former ELL students who are mobile;

(e) The percentage of current and former ELL students who are homeless;

(f) The percentage of current and former ELL students who are migrant students;

(g) The percentage of current and former ELL students who are recent arrivers to Oregon; and

(h) The number of unique home languages of current and former ELL students.

(4) After identifying potential districts based on student progress indicators that are not meeting objectives and needs of ELL students, the Department may adjust the list of districts:

(a) To achieve geographic diversity of school districts;

(b) Based on the percentage of current ELL students identified as needing special education;

(c) Based on data trends identified by the Department related to a school district;

(d) Based on programs for ELL students within the district which have been shown to either improve high school graduation rates or English language proficiency; and

(e) Based on available funding.

(5) After identifying the districts that are not meeting objectives and needs of ELL students, the Department shall further identify the districts as:

(a) ELL transformation districts; or

(b) ELL target districts.

(6) The Department may use the demonstrated commitment level of a district's superintendent and board as a factor in determining whether the district is an ELL transformation or ELL target district.

(7) Data used by the Department to identify school districts may be from different school years but must by the best data available as identified by the Department.

Stat. Auth.: Sec. 3, ch. 604, OL 2015 (Enrolled HB 3499)

Stats. Implemented: ORS 339.079 & Sec. 3, ch. 604, OL 2015 (Enrolled HB 3499)

Hist.: ODE 7-2016, f. & cert. ef. 2-5-16

581-020-0612

Transformation Districts

The Department, in consultation with an ELL transformation district, shall:

(1) Select specific schools within the district for interventions and targeted assistance.

(2) Identify the specific interventions and technical assistance to be provided to ELL transformation districts which may include grant funds.

(3) Establish the expected growth in student progress indicators, and the expected benchmarks for student progress indicators, for English language learners of the district.

(4) Shall design and implement an accountability system of progressive interventions for the school district which will be provided for four years after the district has been identified as a ELL transformation district.

Stat. Auth.: Sec. 3, ch. 604, OL 2015 (Enrolled HB 3499)

Stats. Implemented: ORS 339.079 & Sec. 3, ch. 604, OL 2015 (Enrolled HB 3499)

Hist.: ODE 7-2016, f. & cert. ef. 2-5-16

581-020-0615

Target Districts

The Department shall identify the:

(1) The technical assistance to be provided to ELL target districts.

(2) Establish the expected growth in student progress indicators, and the expected benchmarks for student progress indicators, for English language learners of the district.

Stat. Auth.: Sec. 3, ch. 604, OL 2015 (Enrolled HB 3499)

Stats. Implemented: ORS 339.079 & Sec. 3, ch. 604, OL 2015 (Enrolled HB 3499)

Hist.: ODE 7-2016, f. & cert. ef. 2-5-16

DIVISION 21

SCHOOL GOVERNANCE AND STUDENT CONDUCT

581-021-0017

Dental Screening Certification

(1) Definitions:

(a) “Dental screening” means a dental screening test to identify potential dental health problems that is conducted by:

(A) A dentist licensed under ORS Chapter 679;

(B) A dental hygienist licensed under ORS 680.010 to 680.205

(C) A health care practitioner as defined in (1)(c) of this rule;

(D) An employee of the education provider or a volunteer designated by the education provider to perform a dental screening who has completed training on how to perform a dental screening in accordance with guidelines established by the Dental Director appointed by the Oregon Health Authority.

(b) “Education provider” means:

(A) An entity that offers a program that is recognized as an Oregon prekindergarten program under ORS 329.170 to 329.200.

(B) A school district board as defined in ORS 332.002.

(c) “Health Care Practitioner” means a Physician, Physician’s Assistant, Doctor of Osteopathic Medicine licensed by the Oregon Medical Board, a Nurse Practitioner licensed by the Oregon State Board of Nursing, or a Naturopathic Physician licensed by the Oregon State Board of Naturopathic Medicine.

(d) “Dental health record,” for purposes of this rule, has the same meaning as “Education Records” in OAR 581-021-0220.

(2) Each education provider must:

(a) Require a student who is seven years of age or younger and who is beginning an educational program with the education provider for the first time to submit certification within 120 days of the student beginning school that the student received a dental screening within the previous 12 months;

(b) File in the student’s dental health record any dental screening certifications and any results of a dental screening known by the education provider;

(c) Provide the parent or guardian of each student with standardized information developed by the dental director appointed by the Oregon Health Authority regarding dental screenings, further examinations or necessary treatments, and preventative care including fluoride varnish, sealants and daily brushing and flossing; and

(d) No later than October 1 each year, submit to the Department of Education a report that identifies the percentage of students who failed to submit the certification required under this rule for the previous school year.

(3) A student is not required to submit a dental screening certification required under subsection (2) of this rule if the student provides a statement from the parent or guardian of the student that:

(a) The student submitted certification to a prior education provider;

(b) The dental screening is contrary to the religious beliefs of the student or the parent or guardian of the student; or

(c) The dental screening is a burden for the student or the parent or guardian of the student in one of the following ways:

(A) The cost of obtaining the dental screening is too high;

(B) The student does not have access to an approved screener identified in (1)(a) of this rule; or

(C) The student was unable to obtain an appointment with an approved screener identified in (1)(a) of this rule.

(4) Certification of a dental screening:

(a) May be provided by a person identified in subsection (1)(a) of this rule who conducts regular dental screenings of the student; and

(b) Must include the following information:

(A) Student’s name;

(B) Screening date; and

(C) Name of entity conducting the dental screening

Stat. Auth.: Chapter 558, Sec 1 & 3, 2015 OL (Enrolled HB 2972)

Stats. Implemented: Chapter 558, Sec 1, 2015 OL (Enrolled HB 2972)

Hist.: ODE 36-2016, f. & cert. ef 6-15-16

(a) “ADM” means the average daily membership as defined in ORS 327.006.

(b) “Emergency to protect the health, safety or welfare of the student” includes but is not limited to sexual assault, threats against a student’s life, or threats of imminent harm.

(c) “Hardship” means any of the following:

(A) The student is impacted by a parent or guardian’s military deployment;

(B) The student is experiencing instability related to homelessness or foster care placement;

(C) The student has a documented medical condition that necessitates transfer;

(D) Death of a student’s parent;

(E) The student does not have access to safe and affordable childcare in the resident district; or

(F) The student is involved in a documented case of severe harassment, intimidation, bullying or cyberbullying.

(d) “Individualized education program” means a written statement of an educational program for a child with a disability that is developed, reviewed and revised in a meeting in accordance with criteria established by rules of the State Board of Education for each child eligible for special education and related services under ORS Chapter 343.

(e) “Interscholastic activities” includes but is not limited to athletics, music, speech, and other related activities.

(f) “Nonresident school district” means a school district that is not the resident school district of a child.

(g) “Person in parental relationship” means, as defined in ORS 339.133, an adult who has physical custody of a child or resides in the same household as the child, interacts with the child daily, provides the child with food, clothing, shelter and incidental necessities and provides the child with necessary care, education and discipline. “Person in parental relationship” does not mean a person with a power of attorney or other written delegation of parental responsibilities if the person does not have other evidence of a parental relationship.

(h) “Resident school district” means the school district that has a legal responsibility to educate a child because the child resides in the district with a parent, guardian or person in parental relationship.

(i) “School district” means a school district as defined in ORS 332.002, a state-operated school or any legally constituted combination of such entities.

(2)(a) Pursuant to ORS 339.127, a nonresident school district may enroll a student who is a resident of another district and receive State School Fund money for the student if there is a signed Interdistrict Transfer Agreement between the resident school district, nonresident school district, and the parent/guardian(s) or person in parental relationship.

(b) Except as provided in (6), in determining whether to admit or release a student requesting inter-district transfer through a signed Interdistrict Transfer Agreement, or in establishing any terms of such consent, neither the resident district nor the nonresident district may consider race, religion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language, athletic ability, or academic records.

(c) The provisions of this rule do not affect the authority of a school district to enroll students under section 9, chapter 718, Oregon Laws 2011 (Enrolled House Bill 3681) and do not apply to students who attend a school under that section.

(d) The provisions of this rule do not affect the authority of a school district to enter into a contract with another district under ORS 339.125.

(3) It is understood that upon approval by the district of the Interdistrict Transfer Agreement that:

(a) The Resident District shall fully release the student to the Nonresident District. The Nonresident District shall claim the student as a resident student for the purposes of claiming basic

581-021-0019

Interdistrict Transfer Agreement

(1) Definitions. As used in this rule:

school support under the State School Fund and shall report itself as the Resident District of record for ADM purposes.

(b) The Nonresident District shall report the student as a resident student for ADM per ORS 339.133. The Resident District turns over to the Nonresident District all portions of the ADMr and the ADMw that is paid from the State School Fund. Funds may only be exchanged between the districts for the student based on the Interdistrict Transfer Agreement.

(c) The Nonresident District will be accountable for meeting the requirements of the standards described in OAR chapter 581, division 22.

(d) The Nonresident District will be accountable for ensuring a free, appropriate public education (FAPE) in the least restrictive environment (LRE) for students on an Individualized Education Program (IEP).

(4) Modification to the original Interdistrict Transfer Agreement requires written consent by the nonresident school district and parent/guardian or person in parental relationship.

(5)(a) Except as provided in (6), a district considering whether to admit a nonresident student through interdistrict transfer may only request the following information prior to admitting the student:

(A) Legal Name;

(B) Date of Birth;

(C) Enrolled Grade;

(D) Primary Phone Number of Parent/Guardian/Person of Parental Relationship;

(E) Primary Email of Parent/Guardian/Person of Parental Relationship;

(F) Mailing Address of Parent/Guardian/Person of Parental Relationship;

(G) Information on any student expulsions within the last calendar year;

(H) Whether the student has siblings who are currently enrolled in a school of the nonresident district and, if so, which school;

(I) Whether the student previously had received consent to remain enrolled in the school district following a legal change of residence to a different school district during the school year or over the summer;

(J) Whether the student attended a public charter school located in the nonresident district for at least three consecutive years, completed the highest grade offered by the public charter school, and did not enroll in and attend school in another district following completion of the highest grade offered by the public charter school; and

(K) Information about which schools in the nonresident district the student prefers to attend.

(b) Except as provided in (6), a district considering whether to admit a nonresident student through interdistrict transfer may not request information on the student's race, religion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language, athletic ability, or academic records.

(6)(a) In the event of an emergency to protect the health, safety or welfare of the student or if the student experiences a hardship as defined by these rules, a district may consent to an interdistrict transfer and is not required to comply with the processes, limits, priorities, or timelines established by district policy governing interdistrict transfers so long as the superintendents of the resident district and the nonresident district have conferred and agree that the needs of the student would be better served by the nonresident district.

(b) In determining whether to consent to an interdistrict transfer on the basis of an emergency or hardship, a district may not discriminate on the basis of race, religion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, profi-

ciency in the English language, athletic ability, or academic records.

(7) The Oregon Department of Education (ODE) will provide a sample Interdistrict Transfer Agreement form. Resident school districts are responsible for developing their own written instructions.

(8) An Interdistrict Transfer Agreement shall only be between districts within the state of Oregon.

(9) Upon request by the nonresident district, a resident district shall release student records to the nonresident district.

(10) Nothing in this rule prevents a district school board from exercising the authority granted to the district under ORS 339.127(9).

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 339.133

Hist.: ODE 21-2008, f. 8-28-08, cert. ef. 8-29-08; ODE 1-2012, f. 2-1-12, cert. ef. 2-3-12; ODE 33-2014, f. 6-24-14, cert. ef. 7-1-14; ODE 44-2016, f. & cert. ef. 9-6-16

581-021-0020

District School Board Proceedings

Questions of school officers and others concerning the proper administration of the school laws and rules of the Oregon State Board of Education shall be submitted to the Superintendent of the respective county. If the Superintendent is not prepared to answer any question of law submitted to him, he may submit the same in writing to the Superintendent of Public Instruction, giving all the essential facts and stating the point of inquiry in the form of a direct question. The Superintendent of Public Instruction shall answer all such inquiries, securing an opinion of the Attorney General when necessary.

Stat. Auth.: ORS 326

Stats. Implemented: ORS 326.310

Hist.: 1EB 118, f. 11-28-67, ef. 12-25-67; 1EB 134, f. 7-5-72, ef. 7-15-72

581-021-0022

Student Evaluation

The district shall develop policies to assure that a students' academic grade reflects his/her academic achievement in that course. Absenteeism or misconduct shall not be a sole criterion for the reduction of grades.

Stat. Auth.: ORS 326.051(1)(b)

Stats. Implemented: ORS 339.280

Hist.: EB 17-1991, f. & cert. ef. 9-9-91

581-021-0023

Mercury Elimination Policy

(1) Definitions:

(a) "Mercury-added instructional material" means an item or product containing intentionally added elemental mercury or mercury compound(s) used for educational purposes.

(b) "Mercury compound" means a substance consisting mercury chemically combined with another element or combinations of elements, e.g. mercury oxide (HgO).

(c) "Elemental mercury" means the silvery-white liquid metal with atomic number of 80 and an atomic mass of 200.57 represented by chemical symbol Hg.

(2) All Oregon school districts must:

(a) Prohibit the purchase of elemental mercury, mercury compounds and mercury-added instructional materials;

(b) Eliminate all elemental mercury and mercury compounds that are maintained for education purposes, for example, vials of liquid mercury and samples of mercury compounds contained in chemistry class;

(c) Eliminate the use of mercury-added instructional materials; and

(d) Eliminate the use of items and products containing elemental mercury or mercury compounds, as those items and products are replaced at the end of their normal useful lives with cost-effective mercury-free alternatives.

(3) As instructional materials, items and products containing elemental mercury and mercury compounds are replaced; school districts should work with the Oregon Department of Environmental Quality in the proper disposal of materials, items and products.

Stat. Auth.: ORS 326.051(b)

Stats. Implemented: ORS 326.051(g)

581-021-0026

Examination of Children Instructed by Parent, Legal Guardian or Private Teacher

(1) The following definitions and abbreviations apply to OAR 581-021-0026 unless otherwise specified within the rule:

(a) "Approved Tests" Tests approved for assessment of satisfactory progress by home school students are the two most recent versions of the following tests;

- (A) California Achievement Test;
- (B) Comprehensive Tests of Basic Skills;
- (C) Iowa Tests of Basic Skills/Tests of Achievement and Proficiency;
- (D) Metropolitan Achievement Battery;
- (E) Stanford Achievement Test Battery.

(b) "Child" means a person between ages 6 and 18 whose parent or parents seek exemption from compulsory school attendance under ORS 339.030(1)(c) or (1)(d). A child is considered to be six years of age if the sixth birthday of the child occurred on or before September 1 immediately preceding the beginning of the current school term.

(c) "Education Service District" means the education service district that contains the school district of which the child is a resident.

(d) "Department" means the Oregon Department of Education;

(e) "Neutral person" means an individual selected by the parent or guardian of the child to be taught at home who has no relationship by bloodline or marriage to the child;

(f) "Notification" means written notice containing:

- (A) The child's and the parent's name, address, telephone number (optional), and e-mail address (optional);
- (B) The child's birth date; and
- (C) The name of the school the child is presently attending, or last attended, or if child has not attended school, the name of the public school district in which the child resides.

(g) "Order" means to provide formal written notice.

(h) "Parent" is the natural parent or legal guardian of a child whom the parent desires to be exempted from compulsory attendance under the provisions of ORS 339.030(1)(c) or (1)(d).

(i) For the purposes of OAR 581-021-0026 only, "Qualified person" is an individual who:

(A) Holds a current personnel service license or teaching license from Oregon Teacher Standards and Practices Commission; or

(B) Has been licensed by the Oregon Board of Psychologist Examiners; or

(C) Has met the publisher's qualifications for purchase, and has purchased at least one test from the list set forth in section (1)(a) of this rule; or

(D) Provides evidence of satisfactory completion of a graduate course in which test administration and interpretation is included in the objective; or

(E) Has previously qualified as a tester pursuant to paragraph (1)(i) of this rule, and has during the previous year administered at least one test from the list set forth in section (1)(a) of this rule.

(j) "Superintendent" is the executive officer of the education service district (ESD).

(2) The State Superintendent and the Oregon Department of Education shall make available a list of the test publishers and their addresses.

(3) The Department shall make available a list of persons qualified to administer tests under this rule, such list to be updated by July 1 of each year. To be placed on the list, an applicant shall submit to the State Superintendent of Public Instruction evidence that satisfies any one of the requirements stated in subsection (1)(i)(A) through (E) of this rule.

(4) When a child is taught or is withdrawn from a public or private school to be taught by a parent, legal guardian or private teacher, as provided in ORS 339.030(1)(c) or (d), the parent, legal guardian or private teacher must notify the education service

district in writing within 10 days of such occurrence. In addition, when a child who is taught by a parent, legal guardian or private teacher moves to a new education service district, the parent shall notify the new education service district in writing within 10 days of such occurrence of their intent to continue home schooling.

(a) The ESD must acknowledge in writing receipt of any notification from a parent, legal guardian or private teacher within 90 days of having record of such notification.

(b) The ESD must also notify at least annually, school districts of home schooled students who reside in the school district.

(5) Children in grades 3, 5, 8, and 10, being taught as provided in section (4) of this rule, shall be examined no later than August 15 in accordance with the following procedures:

(a) The parent or legal guardian shall select an examination from the list of approved tests provided in subsection (1)(a) above and arrange to have the examination administered to the child by a neutral qualified person as defined in subsections (1)(e) and (i) above.

(A) If the child was withdrawn from public or private school, the first examination shall be administered to the child at least 18 months after the date on which the child was withdrawn from public or private school.

(B) If the child never attended public or private school, the first examination shall be administered to the child prior to the end of grade three.

(b) The person administering the examination shall:

(A) Score or provide for the scoring of the examination; and

(B) Report the results of the examination to the parent or legal guardian.

(c) Upon request of the superintendent of the education service district, the parent or legal guardian shall submit the results of the examination to the education service district.

(6) Testing for grade levels 3, 5, 8, and 10 shall occur in the third, fifth, eighth, and tenth year ending August 15. The first year is defined as when the child is six on September 1, or earlier at the parent's discretion.

(7) Test score results shall be evaluated as follows:

(a) If the composite test score of the child places the child below the 15th percentile based on national norms, the child shall be given an additional examination within one year of when the first examination was administered.

(b) If the composite test score of the child on the second examination shows a declining score, then the child shall be given an additional examination within one year of when the second examination was administered and the superintendent of the education service district may:

(A) Allow the child to continue to be taught by a parent, legal guardian or private teacher; or

(B) Place the education of the child under the supervision of a person holding a teaching license who is selected by the parent or legal guardian at the expense of the parent or legal guardian.

(c) If the composite test score of the child continues to show a declining score, the superintendent of the education service district may:

(A) Allow the child to continue under the educational supervision of a licensed teacher selected by the parent or legal guardian, at the expense of the parent or legal guardian, and require that the child be given an additional examination within one year of when the last examination was administered;

(B) Allow the child to be taught by a parent, legal guardian or private teacher and require that the child be given an additional examination within one year of when the last examination was administered; or

(C) Order the parent or legal guardian to send the child to school for a period not to exceed 12 consecutive months as determined by the superintendent.

(d) If the parent or legal guardian of the child does not consent to placing the education of the child under the supervision of a licensed teacher who is selected by the parent or legal guardian, then the superintendent of the education service district may order

the child to school for a period not to exceed 12 consecutive months as determined by the superintendent.

(e) If the composite test score of the child on an examination is equal to or greater than the percentile score on the prior test, the child may be taught by a parent, legal guardian or private teacher and for the next examination be examined pursuant to subsection (5) of this section.

(8) Procedures for homeschooling students with disabilities are set out in OAR 581-021-0029.

(9) A test administrator shall certify that the administrator is qualified and neutral as defined in this rule with respect to a child being tested.

(10) All costs for the test instrument, administration, and scoring are the responsibility of the parent.

(11) The parent of a child who turns six after September 1 shall not be required to provide notice of intent to home school that child until the beginning of the next school year.

(12) Violation of ORS 339.020 or the requirements of 339.035 is punishable as set out in 339.990.

Stat. Auth.: ORS 339.030 & 339.035

Stats. Implemented: ORS 339.035

Hist.: 1EB 8-1986, f. 3-12-86, ef. 3-17-86; 1EB 10-1986, f. 3-21-86, ef. 3-24-86; EB 6-1992(Temp), f. & cert. ef. 2-25-92; EB 26-1992, f. & cert. ef. 7-28-92; EB 33-1992(Temp), f. & cert. ef. 10-29-92; EB 14-1993, f. & cert. ef. 3-25-93; EB 12-1996, f. 7-26-96, cert. ef. 11-1-96; ODE 19-2000, f. & cert. ef. 5-23-00; ODE 38-2016, f. & cert. ef. 7-18-16

581-021-0029

Home Schooling for Children with Disabilities

(1) The definitions in OAR 581-021-0026 apply to this rule, along with the following definitions:

(a) "District" means the student's resident school district under 339.133

(b) "Child with a disability means a child between the ages of 6 and 18 whose parent or guardian seeks exemption from compulsory school attendance under ORS 339.030(1)(c) or (1)(d) and who meets eligibility criteria for a specific disability category under OAR 581-015-0051.

(c) "Individualized educational program" (IEP) is defined under OAR 581-015-0005(11).

(d) "Privately developed plan" (PDP) means an individual plan developed by a team including the parent and one or more private service providers to address the educational needs of a child with a disability. A PDP shall include individual educational goals for the student and a statement indicating how satisfactory educational progress will be determined for the student.

(e) "Satisfactory educational progress" means educational progress across academic and/or developmental areas appropriate to the child's age and abilities. The student need not complete all individualized educational program or privately developed plan goals for the team to determine that the student is making satisfactory educational progress.

(2) Notice Requirements:

(a) Parents shall notify the ESD superintendent of intent to home school a child with a disability in accordance with OAR 581-021-0026(1)(f) and (4).

(b) The ESD superintendent shall notify the district if the ESD receives notice that a parent intends to home school a child with a disability.

(c) The district shall provide written notice to the parent that it stands ready to provide a free appropriate public education if the child enrolls in the district. This notice shall be provided annually as long as:

(A) The child remains eligible for special education; and

(B) The child is exempt from compulsory education as a home schooled child; and

(C) The child is not receiving special education and related services from the district.

(3) Testing and Reporting Requirements:

(a) If a child with a disability is receiving IEP services from a district and the IEP includes a provision for IEP team assessment of satisfactory educational progress, the district shall:

(A) Complete this assessment according to the schedule identified in OAR 581-021-0026(6); and

(B) Provide the parent with a copy of the results, including a summary statement indicating whether the child has made satisfactory educational progress in light of the child's age and disability.

(b) If a child with a disability is receiving services under a PDP, and the PDP includes a provision for assessment of satisfactory educational progress, the PDP team shall:

(A) Complete this assessment according to the schedule identified in OAR 581-021-0026(6); and

(B) Provide the parent with a copy of the results, including a summary statement indicating whether the child has made satisfactory educational progress in light of the child's age and disability.

(c) Parents who are home schooling a child with a disability shall do one of the following:

(A) If the district has conducted an assessment under subsection (3)(a)(A), retain documentation of the child's progress under subsection (3)(a)(B) and, upon request, report this information to the ESD on the same schedule as required under OAR 581-021-0026(6); or

(B) Ensure that the child's progress is evaluated according to a privately developed plan, and retain and report progress, upon request, on the same schedule as required by OAR 581-021-0026; or

(C) Follow the testing and reporting requirements in OAR 581-021-0026.

(d) Parents of a child who is not identified under OAR 581-015-0051 but who is disabled under Section 504 of the Rehabilitation Act shall comply with subsections (B) or (C), above.

(4) If the IEP or PDP team determines that the child has not made satisfactory educational progress, the superintendent shall take the actions identified in OAR 581-021-0026 in the sequence stated.

(5) District responsibilities for home schooled children with disabilities:

(a) When the district receives notice that a parent intends to home school a child with a disability or that a child with a disability is being home schooled, the district shall offer, and document to the parent;

(A) An opportunity for the child to receive special education and related services if the child were enrolled in the district; and

(B) An opportunity for IEP meeting to consider providing special education and related services to the child with a disability in conjunction with home schooling.

(i) An IEP shall only be developed for a child with a disability if the IEP team determines that a free appropriate public education can be provided in conjunction with home schooling.

(ii) Services may be provided in the home only to the extent that special education or related services would be provided in the home if the child were not home schooled.

(b) The child's IEP team shall be convened and conducted, and an IEP developed, consistent with the requirements in OAR Division 15, with the following exceptions:

(A) The child's parent shall be treated as both parent and regular education teacher of the child unless the parent designates another individual as the regular education teacher;

(B) Under "extent of non-participation in regular education" the IEP shall state that the child is exempt from compulsory school attendance and regular education is provided through home schooling; and

(C) The IEP shall state how "satisfactory educational progress" will be determined for the student.

(i) If the IEP team determines that the testing requirements of OAR 581-021-0026 are appropriate for the child, the provisions of 581-021-0026(6) shall apply to the child.

(ii) If the IEP team determines that the testing requirements of OAR 581-015-0026 are not appropriate for the child, the IEP team shall identify another measure that will be used to determine whether the child has made satisfactory educational progress.

(iii) Notwithstanding subsections (i) and (ii), a parent may use a PDP to determine whether the child has made satisfactory educa-

tional progress. If so, the IEP shall indicate that satisfactory educational progress will be determined by the PDP team at parent request.

(c) Children with disabilities shall be reevaluated at least every three years in accordance with OAR 581-015-0072 through 581-015-0074 and 581-015-0701.

(A) If the team determines that specific evaluation is necessary to continue eligibility or to determine appropriate special education and related services for the child's IEP, and the parent refuses consent for such evaluation, or refuses to make the child available, the district shall document to the parent that the district stands ready to conduct the evaluation when the parent gives consent or makes the child available.

(B) If the district does not have sufficient evaluation information to determine eligibility or to develop an IEP, the district is not required to complete these activities. The district shall provide prior written notice under OAR 581-015-0075 if the district terminates eligibility or services under these circumstances.

(d) Child find:

(A) If a district suspects that a home schooled child has a disability under OAR 581-015-0051, the district shall:

(i) Obtain parent consent for initial evaluation under OAR 581-015-0039; and

(ii) Conduct an initial evaluation and determine the child's eligibility to receive special education and related services consistent with OAR 581-015-0051, 0053, 0071, 0072, 0073, and 0701.

(B) If the child is eligible, the district shall notify the parent and shall offer and document to the parent an opportunity for an IEP meeting to consider initiation of special education and related services to the child with a disability.

(C) If the parent refuses consent, does not respond, or refuses to make the child available, the district shall document to the parent that the district stands ready to conduct the evaluation when the parent gives consent or makes the child available.

(D) If a parent does not respond or refuses to meet to consider initiation of special education and related services, the district has no further obligation to initiate the offer of a free appropriate public education as long as the child is exempted from compulsory education as a home schooled child.

(6) If the district permits partial enrollment of home schooled children in its regular education program, the district shall permit children with disabilities to participate to the same extent as non-disabled children, if appropriate, whether or not the child is receiving IEP services from the district.

(a) If the child is receiving IEP services from the district, the IEP team shall determine the appropriateness of participation and the IEP shall include necessary modifications and accommodations related to the participation. Notwithstanding subsection (5)(b)(A), if the IEP calls for participation in any part of the district's regular education program, the IEP team shall include a district regular education teacher in accordance with OAR 581-015-0066(3).

(b) If the child is not receiving IEP services from the district, the district shall consider the participation, and necessary modifications and accommodations for the child under Section 504 of the Rehabilitation Act.

(7) A child who is exempt from compulsory school attendance as a home schooled child with a disability will continue to be considered an exempt home schooled child even though:

(a) The child receives special education and related services from the district, unless these services are the equivalent of full-time enrollment in the district; or

(b) If the district permits partial enrollment of home schooled children and, pursuant to that policy, the child attends one or more regular education classes.

(8) Parents of home schooled children with disabilities have the same procedural safeguards as children with disabilities enrolled in the district, except for the following:

(a) A parent is not entitled to an independent educational evaluation at public expense under OAR 581-015-0094 if the parent disagrees with an IEP team evaluation regarding satisfactory educational progress under this rule.

(b) A parent may not request a due process hearing under OAR 581-015-0081 to contest a district's decision not to provide special education and related services in conjunction with home schooling.

(c) Complaints that a school district has failed to meet any of the requirements under OAR 581-021-0029(5) or (8) may be heard under OAR 581-015-0054.

Stat. Auth.: ORS 339

Stats. Implemented: ORS 339.035

Hist.: 1 EB 29-1986, f. & ef. 7-23-86; ODE 19-2000, f. & cert. ef. 5-23-00; ODE 38-2016, f. & cert. ef. 7-18-16

581-021-0030

Limitation on Administration and Utilization of Tests in Public Schools

(1) Tests shall be considered as instruments that are means to assist decision-making on the part of parents, the public, school boards and the professional staff, rather than ends unto themselves. Tests may be used as follows in addition to other uses specified in local policies:

(a) To assist in making decisions about the effectiveness of school programs;

(b) To assist in determining the attainment of specified educational outcomes;

(c) To provide information to the students about themselves, to parents, and to the school staff which may assist them in making programmatic decisions of benefit to the student.

(2) Tests of intelligence, ability, achievement or aptitude shall not be used as sole criterion for placement of students in educational groups or tracks:

(a) Before administering individual intelligence tests (as opposed to group intelligence tests) and all tests of personality to children in public schools, districts shall inform parents as to the purpose of testing; and the parents' written permission shall be obtained. In homes where the predominant language spoken is not English, the communications on the purpose of testing should be in the language spoken in the home;

(b) When a school district believes it is not feasible to comply with subsection (2)(a) of this rule, it may petition the Department of Education for a waiver in accordance with the procedure contained in the State Standards for Oregon Public Schools.

Stat. Auth.: ORS 326 & 336

Stats. Implemented: 20 U.S.C. 1232h

Hist.: 1EB 141, f. 10-5-72, ef. 10-15-72; 1EB 173, f. 7-1-74, ef. 9-1-74; 1EB 226, f. & ef. 6-4-76; 1EB 16-1982, f. 8-4-82, ef. 8-5-82

581-021-0031

Vision Screening Certification

(1) Definitions:

(a) "Education provider" means:

(A) Oregon prekindergarten as defined in OAR 581-019-0005 to 0035; and

(B) School district board as defined in ORS 332.002.

(b) "Eye examination" means an eye exam that:

(A) Is conducted by a person licensed by the Oregon Board of Optometry under ORS 683.010 to 683.340; or

(B) Is conducted by a person licensed by the Oregon Medical Board under ORS 677 and trained in eye surgery and eye disease; and

(C) Involves any diagnosis of the eye and any measurement or assistance of the powers or range of vision of the eye.

(c) "Health care practitioner," for the purposes of this rule, means a Physician (MD), Physician's Assistant (PA), Doctor of Osteopathic Medicine (DO) licensed by the Oregon Medical Board, a Nurse Practitioner licensed by the Oregon State Board of Nursing, or a Naturopathic Physician licensed by the Board of Naturopathic Medicine.

(d) "Vision screening" means an eye screening test to identify potential vision health that is conducted by:

(A) A person licensed by the Oregon Board of Optometry under ORS 683.010 to 683.340;

(B) A person licensed by the Oregon Medical Board under ORS 677 and trained in eye surgery and eye disease;

(C) A health care practitioner as defined in section (1)(c) of this rule;

(D) A school nurse, an employee of an education provider, including a licensed Registered Nurse or Nurse Practitioner working for a school district to provide school health services, or a person designated by the Department of Education who has completed instruction on how to perform vision screening by an established program which:

(i) Is evidence based; and

(ii) Uses medically accepted standards for screening by non-medically licensed persons, including volunteers.

(e) "Vision Health Record," for the purposes of this rule, has the same meaning as "Education Records" in OAR 581-021-0220(6).

(2) Each education provider must:

(a) Require a student who is age seven or younger and entering an educational program for the first time to submit certification within 120 days of the student beginning school, that the student received:

(A) A vision screening or an eye examination; and

(B) Any further eye examinations or necessary treatments or assistance of the powers or range of vision of the eye.

(b) If a child enters an educational program without certification of vision screening, provide the parent with informational resources about:

(A) Student vision screenings, eye examinations; and

(B) Any further examinations or necessary eye or vision treatments.

(c) File in the student's vision health record any certifications or results of vision screening or eye examination;

(d) Ensure that the requirements of this rule are met.

(3) A student is not required to submit certification required in subsection (2) of this rule if the student provides a statement from the parent of the child that:

(a) The student submitted certification to a prior education provider; or

(b) The student's or parents' religious beliefs are contrary to vision screening or eye examination.

(4) Failure by a student or parent to meet the requirements of this rule may not result in prohibiting the student from attending school, but may result in withholding report cards or similar actions.

(5) Certification of a vision screening or eye exam is documented using any written communication method selected by the screening entity to report results of the screening and/or eye exam to parents. The communication must include the:

(a) Child's name;

(b) Screening and/or eye exam date;

(c) Results of the screening and/or eye exam; and

(d) Name of the entity conducting the screening and/or eye exam.

Stat Auth: ORS 336.211

Stat. Implemented: ORS 336.211

Hist.: ODE 16-2014(Temp), f. & cert. ef. 3-12-14 thru 9-8-14; ODE 20-2014, f. & cert. ef. 6-3-14

581-021-0033

Interscholastic Activities Eligibility Requirement for Home School Students

(1) A home school student may participate in interscholastic activities in his or her resident district's attendance area if the student meets all of the requirements of ORS 339.460 and:

(a) Achieves a composite test score that is not less than the 23rd percentile on any of the annual achievement tests listed in OAR 581-021-0026; and

(b) Submits the student's composite test score to the district prior to participation in an interscholastic activity.

(2) Notwithstanding subsection (1)(b) of this rule, any public school student who chooses to be home schooled may participate in interscholastic activities while awaiting test score results.

(3) A school district may adopt alternative requirements, in consultation with the parent or legal guardian of a home school stu-

dent, that a student must meet to participate in interscholastic activities, including but not limited to a requirement that a student submit a portfolio of work samples to a school district committee for review to determine whether a student is eligible to participate in interscholastic activities.

Stat. Auth.: ORS 339.460

Stats. Implemented: ORS 339.460

Hist.: EB 15-1991(Temp), f. & cert. ef. 8-29-91; EB 2-1992, f. & cert. ef. 2-21-92; ODE 19-2000, f. & cert. ef. 5-23-00

581-021-0037

Administration of Prescription and Nonprescription Medication to Students

(1) As used in this rule, definitions of terms shall be as follows:

(a) "Age appropriate guidelines" means the student must be able to demonstrate the ability, developmentally and behaviorally, to self-medicate with permission from a parent or guardian, building administrator and in the case of a prescription medication a physician;

(b) "Adrenal crisis" means adrenal crisis as defined in ORS 433.800;

(c) "Adrenal insufficiency" means adrenal insufficiency as defined in ORS 433.800;

(d) "Asthma" means a chronic inflammatory disorder of the airways that requires ongoing medical intervention;

(e) "Designated staff" means the school staff person who is designated by the building level school administrator, either the principal or head teacher, to administer nonprescription or prescription medication pursuant to district policy and procedure;

(f) "Instruction from physician, physician assistant or nurse practitioner" means a written instruction for the administration of a prescription medication to a student which:

(A) Shall include:

(i) Name of student;

(ii) Name of medication;

(iii) Dosage;

(iv) Method of administration;

(v) Frequency of administration; and

(vi) Other special instruction, if any.

(B) Shall include the prescription medication label prepared by a pharmacist at the direction of a physician, physician assistant or nurse practitioner will meet the requirements for a written instruction if it contains the information listed in (i) through (vi) of this paragraph;

(g) "Instruction from the student's parent or guardian" means a written instruction for the administration of a nonprescription medication to a student which shall include:

(A) Name of student;

(B) Name of medication;

(C) Dosage;

(D) Method of administration;

(E) Frequency of administration;

(F) Other special instructions; and

(G) Signature of parent or guardian.

(h) "Nonprescription medication" means only Federal Drug Administration approved, non-alcohol-based medication to be taken at school that is necessary for the child to remain in school. This shall be limited to eyes, nose and cough drops, cough suppressants, analgesics, decongestants, antihistamines, topical antibiotics, anti-inflammatories and antacids that do not require written or oral instructions from a physician. Nonprescription medication does not include dietary food supplements or nonprescription sunscreen;

(i) "Notice of a diagnoses of adrenal insufficiency" means written notice to the school district from the parent or guardian of a student who has been diagnosed as adrenal insufficient with a copy of an order from the student's physician that includes the student's diagnosis, description of symptoms indicating the student is in crisis, prescription for medication to treat adrenal insufficiency crisis, and instructions for follow-up care after medication to treat adrenal insufficiency crisis has been administered.

(j) "Physician" means:

(A) A doctor of medicine or osteopathy or a physician assistant licensed to practice by the Board of Medical Examiners for the State of Oregon except as allowed under subsection (5) of this rule;

(B) A nurse practitioner with prescriptive authority licensed by the Oregon State Board of Nursing;

(C) A dentist licensed by the Board of Dentistry for the State of Oregon;

(D) An optometrist licensed by the Board of Optometry for the State of Oregon; or

(E) A naturopathic physician licensed by the Board of Naturopathy for the State of Oregon;

(k) "Prescription medication" means:

(A) Any non-injectable drug, chemical compound, suspension or preparation in suitable form for use as a curative or remedial substance taken either internally or externally by a student under the written direction of a physician; and

(B) Bronchodilators or auto-injectable epinephrine prescribed by a student's Oregon licensed health care professional for asthma or severe allergies.

(C) Prescription medication does not include dietary food supplements.

(l) "Qualified trainer" means a person who is familiar with the delivery of health services in a school setting and who is:

(A) A Registered Nurse licensed by the Oregon State Board of Nursing;

(B) A physician; or

(C) A pharmacist licensed by the State Board of Pharmacy for the State of Oregon.

(m) "Severe allergy" means a life-threatening hypersensitivity to a specific substance such as food, pollen or dust;

(n) "Student self-medication" means students must be able to administer medication to him or herself without requiring a trained school staff member to assist in the administration of the medication;

(o) "Training" means yearly instruction provided by qualified trainers to designated school staff on the administration of prescription and nonprescription medications, based on requirements set out in guidelines approved by the Department of Education, including discussion of applicable district policies, procedures and materials;

(2) Each school district shall adopt policies and procedures that provide for:

(a) The administration of prescription and nonprescription medication to students by trained school personnel; and

(b) Student self-medication including age appropriate guidelines.

(3) Policies and procedures shall:

(a) Include a process to designate, train and supervise appropriate staff that takes into account when a student is in school, at a school sponsored activity, under the supervision of school personnel, in before-school or after-school care programs on school-owned property, and in transit to or from school or school-sponsored activities;

(b) Permit designated staff to administer prescription medication under the written permission from the student's parent or guardian and instruction from a physician, physician assistant or nurse practitioner if, because of its prescribed frequency, the medication must be given while in school, at a school sponsored activity, while under the supervision of school personnel, in before-school or after-school care programs on school-owned property, and in transit to or from school or school-sponsored activities;

(c) Permit designated staff to administer nonprescription medication under the written permission and instruction from the student's parent or guardian; and

(d) Permit student self-medication;

(e) Include procedures for the administration of premeasured doses of epinephrine by school personnel trained as provided by ORS 433.815 to any student or other individual on school premises who the personnel believe in good faith is experiencing a severe allergic reaction, regardless of whether the student or individual has a prescription for epinephrine;

(f) Include procedures for the administration of medication by school personnel to treat a student who the personnel believe in good faith is experiencing symptoms of adrenal crisis. The procedures must provide that:

(A) Only upon notice of a diagnoses of adrenal insufficiency as defined in this rule, the building administrator of the school the student attends will designate school personnel to be responsible for administering medication to treat adrenal insufficiency in the event the student exhibits symptoms that school personnel believe in good faith indicate the student is experiencing symptoms of adrenal crisis;

(B) The designated school personnel will successfully complete training to administer medication to treat a student who has adrenal insufficiency and it experiencing symptoms of adrenal crisis in accordance with rules adopted by the Oregon Health Authority;

(C) The parent or guardian of the student must provide adequate supply of the student's prescribed medication to the school district; and

(D) In the event that a student experiences symptoms of adrenal crisis and the designated personnel determines the medication to treat adrenal insufficiency should be administered, any available school personnel will immediately call 911 and the student's parent or guardian.

(g) Provide guidelines for the management of students with life-threatening food allergies and adrenal insufficiency while the student is in school, at a school sponsored activity, while under the supervision of school personnel, in before-school or after-school care programs on school-owned property, and in transit to or from school or school-sponsored activities. The guidelines must include:

(A) Standards for the education and training of school personnel to manage students with life threatening allergies or adrenal insufficiency;

(B) Procedures for responding to life-threatening allergic reactions or adrenal crisis;

(C) A process for the development of an individualized health care and allergy plan for every student with a known life-threatening allergy and an individualized health care plan for every student for whom the school district has been given proper notice of a diagnoses of adrenal insufficiency as defined in this rule;

(D) Protocols for preventing exposures to allergens;

(E) A process for determining when a student may self-carry prescription medication;

(F) Policies and procedures that provide for self-administration of medication by kindergarten through grade 12 students with asthma or severe allergies. The policies and procedures must:

(i) Require that a physician prescribe the medication to be used by the student while in school, at a school sponsored activity, while under the supervision of school personnel, in before-school or after-school care programs on school-owned property, and in transit to or from school or school-sponsored activities, and instruct the student in the correct and responsible use of the medication;

(ii) Require that a physician or other Oregon licensed health care professional, acting within the scope of the person's license; formulate a written treatment plan for managing the student's asthma or severe allergy;

(4) Policies and procedures related to administration of prescription and nonprescription medication and student self-medication must discuss:

(a) Safe storage, handling, monitoring supply and disposing of medications;

(b) Record keeping and reporting of medication administration, including errors in administration;

(c) Emergency medical response for life threatening side effects and allergic reactions, including the administration of premeasured doses of epinephrine to students and other individuals; and

(d) Student confidentiality.

(5) A registered nurse who is employed by a public or private school may accept an order from a physician licensed to practice medicine or osteopathy in another state or territory of the United

States if the order is related to the care or treatment of a student who has been enrolled at the school for not more than 90 days.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 339.870; 2015 OL Ch. 112, Section 2 (Enrolled HB 3149); 2015 OL 162, Section 1 (Enrolled HB 3041)

Hist.: ODE 3-1998(Temp), f. & cert. ef. 2-27-98 thru 8-25-98; ODE 6-1998, f. & cert. ef. 4-23-98; ODE 10-1999, f. & cert. ef. 2-12-99; ODE 8-2005, f. & cert. ef. 3-23-05; ODE 17-2009, f. & cert. ef. 12-10-09; ODE 4-2010, f. & cert. ef. 3-18-10; ODE 21-2014, f. & cert. ef. 6-3-14; ODE 19-2016, f. & cert. ef. 3-22-16

581-021-0038

Minimum Requirements for School District Sexual Harassment Policies

(1) It is the policy of the Oregon State Board of Education that all employees and students in public schools are entitled to work and study in an environment that is free of harassment. To that end, sexual harassment will not be tolerated in Oregon schools.

(2) School district boards shall adopt policies that meet the requirements set out in sections (7) and (8) of this rule that discuss the sexual harassment of:

(a) Students by staff and other students; and

(b) Staff by students and other staff.

(3) "Sexual harassment of students by staff and other students" includes:

(a) A demand for sexual favors in exchange for benefits; or

(b) Unwelcome conduct of a sexual nature that has the purpose or effect of unreasonably interfering with a student's educational performance or that creates an intimidating, offensive or hostile educational environment.

(4) "Sexual harassment of staff by students and other staff" includes:

(a) A demand of sexual favors in exchange for benefits; or

(b) Unwelcome conduct of a sexual nature that has the purpose or effect of unreasonably interfering with a staff person's ability to perform his or her job or that creates an intimidating, offensive or hostile work environment.

(5) School district board adopted policies shall be made available to students, parents of students and staff.

(6) School districts shall post their board adopted sexual harassment policies on a sign in all grade 6 through 12 schools. Such signs shall be at least 8.5 by 11 inches in size.

(7) District policies regarding sexual harassment of students by staff or other students shall include at a minimum, but are not limited to, the following requirements:

(a) All staff and students are subject to the school district board adopted policies;

(b) All complaints about behavior that may violate this policy shall be investigated;

(c) The initiation of a complaint in good faith about behavior that may violate this policy shall not adversely affect the educational assignments or study environment of the student; and

(d) The student who initiated the complaint and the student's parents shall be notified when the investigation is concluded.

(8) District policies regarding sexual harassment of staff by students or other staff shall include at a minimum, but are not limited to, the following requirements:

(a) All staff and students are subject to the school district board adopted policies;

(b) All complaints about behavior that may violate this policy shall be investigated;

(c) The initiation of a complaint in good faith about behavior that may violate this policy shall not adversely affect any terms or conditions of employment or work environment of the staff complainant; and

(d) The staff member who initiated the complaint shall be notified when the investigation is concluded.

(9) School districts are encouraged to address the following topics in their sexual harassment policies:

(a) The school district's commitment to eliminate sexual harassment;

(b) Definition of all types of harassment covered by the policy;

(c) Examples of the kinds of harassing behaviors covered by the policy;

(d) Procedures to address sexual harassment of students or staff by third parties. "Third party" means a person who is not directly subject to district control (i.e. a person who is not a student or an employee of the district) when the person is engaged in a school sponsored activity. Examples of third parties include but are not limited to audiences at interdistrict or intradistrict athletic competitions or other school events, service contractors, school visitors, and employees of businesses or organizations participating in cooperative work programs with the district.

(e) Identification of the kinds of activities and sites where prohibited conduct could occur;

(f) Standards for determining whether a hostile environment exists;

(g) Identification of the means the school district will use to investigate incidents of harassment;

(h) Remedial action the school district will take to stop the harassment and prevent recurrence;

(i) The name and position of the employee(s) responsible for accepting and managing complaints of harassment and how to contact the individual(s);

(j) A requirement that staff report harassment about which they become aware; and

(k) Prohibition of retaliation against persons who report harassment or participate in related activities.

(10) The Department of Education will provide technical assistance, including assistance in the development of appropriate training, to school districts upon request in the development of appropriate sexual harassment policies as required by this rule.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 342.700 - 342.708

Hist.: ODE 14-1999, f. & cert. ef. 8-13-99

581-021-0041

Form and Protocol for Sports Physical Examinations

The State Board of Education adopts by reference the form entitled "School Sports Pre-Participation Examination May 2010" that must be used to document the physical examination and sets out the protocol for conducting the physical examination. Medical providers conducting physicals on or after April 30, 2011 must use the form dated May 2010.

NOTE: The form can be found on the Oregon School Activities Association (OSAA) website: www.osaa.org

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 336.479

Hist.: ODE 24-2002, f. & cert. ef. 11-15-02; ODE 29-2004(Temp), f. & cert. ef. 9-15-04 thru 2-25-05; ODE 4-2005, f. & cert. ef. 2-14-05; ODE 8-2010, f. & cert. ef. 5-27-10; ODE 9-2010(Temp), f. & cert. ef. 6-30-10 thru 11-26-10; ODE 14-2010, f. & cert. ef. 11-15-10

581-021-0043

Displaying Sovereign Tribal Government's Flags in Public Schools

(1) As used in this section, "Oregon Sovereign tribal governments" means a federally recognized tribal government located in the state of Oregon.

(2) Upon request from an Oregon sovereign tribal government, a flag representing the sovereign tribal government must be displayed on, near, or within a school building, under the control of the school district board during school hours.

(3) The location of the flag will be determined by school district in consultation with the requesting sovereign tribal government.

(4) A school district may not charge for displaying the flag.

Stat. Auth.: ORS 326.051

Stat. Implemented: ORS 326.051

Hist.: ODE 13-2016, f. & cert. ef. 2-5-16; ODE 31-2016, f. & cert. ef. 4-28-16

581-021-0045

Discrimination Prohibited

(1) Discrimination Defined:

(a) "Discrimination" means any act that unreasonably differentiates treatment, intended or unintended, or any act that is fair in form but discriminatory in operation, either of which is based on age, disability, national origin, race, color, marital status, religion, sex or sexual orientation;

(b) The words "District, School District" include all common and union high school districts and education service districts and all educational agencies, programs, and services under the jurisdiction of the State Board of Education, except community college districts.

(c) "Sexual orientation" means an individual's actual or perceived heterosexuality, homosexuality, bisexuality or gender identity, regardless of whether the individual's gender identity, appearance, expression or behavior differs from that traditionally associated with the individual's sex at birth.

(2) "General Prohibition of Discrimination": No person in Oregon shall be subjected to discrimination in any public elementary or secondary school, educational program or service, or interschool activity where the program, service, school, or activity is financed in whole or part by monies appropriated by the Legislative Assembly.

(3) "Specific Prohibitions": In providing programs or services to students, a school district shall not, on a discriminatory basis as defined in subsection (1)(a) of this rule:

(a) Treat one person differently from another in determining whether such person satisfies any requirement of condition for the provision of such aid, benefit, or service;

(b) Provide different aid, benefits, or services; or provide aids, benefits, or services in a different manner;

(c) Deny any person such aid, benefit, or service;

(d) Subject any person to separate or different rules of behavior, sanctions, or other treatment;

(e) Aid or perpetuate discrimination by joining or remaining a member of any agency or organization which discriminates in providing any aid, benefit, or service to students or employees;

(f) Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

(4) "Exceptions": These rules shall not affect attendance boundaries, limit placement of students in programs of desegregation, nor supersede any specific statutory requirement for any educational program.

Stat. Auth.: ORS 326 & 659

Stats. Implemented: ORS 326.051 & 659.150

Hist.: 1EB 252, f. & ef. 9-30-76; 1EB 11-1984, f. & ef. 4-17-84; ODE 13-2008, f. & cert. ef. 5-23-08

581-021-0046

Program Compliance Standards

(1) Access to Course Offerings. A school district shall not provide any course or otherwise carry out any of its educational programs or activities on a discriminatory basis or require or refuse participation therein by any of its students on such basis:

(a) This section does not prohibit grouping of students in any educational program or activity by ability as assessed by objective standards of individual performance;

(b) Where use of an objective standard of measuring skill or progress in an educational program has a discriminatory effect on persons as defined in OAR 581-021-0045, the district shall use appropriate standards which do not have such effect;

(c) This section does not prohibit separating students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball, soccer, and other sports the purpose or major activity of which involves bodily contact.

(2) Employment Assistance. A district which actively assists any agency, organization, or person in making employment available to any of its students shall assure itself that such employment is made available without discrimination.

(3) Marital Status. A district shall not discriminate against any student or exclude any student from its educational program or activity including any class or extracurricular activity on the basis of the student's marital status; however the student may request voluntarily to participate in a separate portion of the program or activity of the district.

(4) Athletics. A district which operates or sponsors interscholastic club or intramural athletics shall provide equal athletic opportunity for members of both sexes, all age and ethnic groups, and persons with disabilities. In determining whether equal opportunities are available, the Superintendent of Public Instruction shall consider among other factors whether the selection of sports and levels of competition effectively accommodate the interests and abilities of all students.

(5) Students Unable to Attend Because of Religious Beliefs. Any student who because of his or her religious beliefs is unable to attend classes on a particular day shall be excused from attendance requirements and from any examination or other assignment on that day. The student shall make up the examination or other assignment missed because of such absence. The absence shall not be counted for the purpose of an attendance policy that may result in exclusion, failure, or reduction of grade based upon a certain number of days.

(6) Textbooks and Curriculum Material. Nothing in this rule shall be interpreted as requiring or prohibiting or abridging in any way the use of adopted textbook or curriculum material. However, where materials are found upon investigation to provide discriminatory impact on the basis of race, color, national origin, religion, sex, sexual orientation, age, disability, or marital status, there should be established resources for employees and students of the district for supplemental alternative nondiscriminatory material.

(7) Use of Appraisal and Counseling Materials. A district which uses testing or other materials for appraising or counseling students shall not use materials which discriminate on the basis of race, color, national origin, religion, sex, sexual orientation, age, disability, or marital status, or use materials which permit or require different treatment of students on such basis unless such differences cover the same occupation and interest areas and the use of such different material is shown to be essential to the elimination of discrimination. Districts shall develop and use internal procedures for insuring that such materials may not discriminate.

(8) Bilingual or Linguistically Different Students. Districts shall develop and implement a plan for identifying students whose primary language is other than English and shall provide such students with appropriate programs until they are able to use the English language in a manner that allows effective and relevant participation in regular classroom instruction and other educational activities.

(9) Equal Educational Opportunity Plans. Districts shall develop and implement a plan which assures that all students have equal opportunity to participate in the educational programs and activities and equal access to facilities in the district. Said plan shall include courses and components which provide students with an understanding of the pluralistic realities of their society, including multi-cultural/racial/ethnic education and equity in por-

traying all classes protected under ORS 659.150. Upon the request of the Superintendent of Public Instruction, districts shall submit copies of such plans and other assurances as are deemed necessary and proper.

(10) Dress Codes. Districts may enforce an otherwise valid dress code or policy, as long the code or policy provides, on a case-by-case basis, for reasonable accommodation of an individual based on the health and safety needs of the individual.

(11) Interpretation of Rules. The Superintendent of Public Instruction may issue written interpretations concerning rules for nondiscrimination upon the written request of parties to a complaint at the district level.

Stat. Auth.: ORS 326 & 659

Stats. Implemented: ORS 326.051 & 659.150

Hist.: 1EB 252, f. & ef. 9-30-76; 1EB 11-1984, f. & ef. 4-17-84; ODE 13-2008, f. & cert. ef. 5-23-08

581-021-0047

Prohibits Public Schools from using Native American Mascots

(1) As used in this section:

(a) "Federally recognized Native American Tribe" means the following:

(A) The Confederated Tribes of the Warm Springs Indian Reservation.

(B) The Confederated Tribes of the Umatilla Indian Reservation.

(C) The Burns-Paiute Tribe.

(D) The Confederated Tribes of Siletz Indians of Oregon.

(E) The Confederated Tribes of the Grand Ronde.

(F) The Cow Creek Band of Umpqua Indians.

(G) The Confederated Coos, Lower Umpqua and Siuslaw Tribes.

(H) The Klamath Tribe.

(I) The Coquille Tribe.

(b) "Native American mascot" means a name, symbol or image that depicts or refers to an American Indian Tribe, individual, custom or tradition that is used by a public school as a mascot, nickname, logo, letterhead or team name.

(c) "Public school" means a school or program operated by a school district, education service district or public charter school.

(2) To ensure that all public schools are in compliance with ORS 659.850 which prohibits discrimination in public schools, on or after July 1, 2017, the use of any Native American mascot by a public school is prohibited. This prohibition includes the use of team names such as "Redskins," "Savages," "Indians," "Indianettes," "Chiefs," "Chieftains," and "Braves," except as provided in subsection (4).

(3)(a) A public school may continue to use the team name "Warriors" as long as it is not combined with a symbol or image that depicts or refers to an American Indian Tribe, individual, custom or tradition. This paragraph does not apply to those public schools that enter into agreements pursuant to subsection (4) of this section.

(b) Except as provided in subsection (4) of this section, a public school may continue to use a mascot that may be associated with Native American culture, custom or tradition if the mascot depicts an animal or other image that is not an individual. Examples of such mascots include team names and images such as the "Thunderbirds," "White Buffalo" and "Eagles."

(4)(a) Pursuant to ORS 332.075, a public school may use a mascot including those prohibited under section (2) that represents, is associated with or is significant to a Native American Tribe only if the public school enters into an approved written agreement with that federally recognized Native American Tribe in Oregon that meets the requirements of this subsection.

(b) A mascot may only be considered under this subsection to represent, be associated with or be significant to a tribe if all of the following requirements are met:

(A) The tribe entering into the agreement determines that the district's mascot represents, is associated with or is significant to the tribe; and

(B) The public school at which the mascot is used is located within the traditional area of interest of the tribe that enters into the agreement.

(c) Any agreement entered into under this subsection shall only be in effect if the public school continues to use a mascot that represents, is associated with or is significant to the Native American Tribe. Nothing in this subsection shall be construed to prevent a public school from changing their mascot to one that is not a Native American mascot.

(d) At least 60 days prior to entering into an agreement under this subsection, a public school must notify the State Board of Education as to which tribe the public school is intending to enter into an agreement with regarding the use of a mascot. If the public school does not enter into an agreement with the tribe listed in the notice, the public school may not enter into an agreement with another tribe relating to the mascot for five years from the date of the notice to the State Board of Education.

(e) A public school must conduct a public hearing relating to the agreement and give opportunity for members of the public to provide written and oral comments to the public school about the agreement. The public hearing must be conducted prior to the public school entering into the agreement.

(f) To be a valid agreement under ORS 332.075 and this rule, an agreement entered into under this subsection must:

(A) Be approved by the board of the public school and contain the signature of the board chairperson;

(B) Be approved by the tribal government of a Native American Tribe and contain the signature of the chairperson of the tribal council or other tribal leader designated by the tribe; and

(C) Be approved by the State Board of Education.

(g) An agreement entered into under this subsection must contain a declaration by the tribe that the mascot represents, is associated with or is significant to the tribe and at a minimum:

(A) A description of the acceptable uses of the mascot that the public school is using. The description must include the name of the mascot and pictures depicting any image, logo or letterhead that is deemed as an acceptable use;

(B) A description of how American Indian/Alaska Native history and culture will be included in the curriculum of the public school;

(C) A description of how the agreement will be enforced both between the school and tribe and within the public school;

(D) The time period of the agreement which may not exceed 10 years;

(E) A review of the agreement by the tribe and public school at least once every five years;

(F) A description of how disputes and complaints relating to the agreement will be resolved;

(G) The process for renewal of the agreement which must include approval by the public school governing body, tribal government and State Board of Education and be consistent with this subsection;

(H) A copy of school policies adopted in accordance with ORS 339.356 that address complaints based on harassment, intimidation or bullying and cyberbullying and a description of how the policies are distributed to parents and students who attend the public school; and

(I) A copy of school policies adopted in accordance with OAR 581-021-0049 that address complaints based on race, color, religion, sex, sexual orientation, national origin, marital status, age or disability and a description of how the policies are distributed to parents and students who attend the public school;

(h) The State Board of Education shall approve an agreement if the agreement meets the requirements of ORS 332.075 and this rule.

(i) A tribe that previously entered into an agreement may revoke the agreement prior to the end of the agreement. The tribe shall inform the State Board of Education of the revocation within fifteen (15) days of revocation.

(5) Nothing in this rule shall be construed to prohibit a public school from:

(a) Displaying art work, historical exhibits or other cultural educational exhibits or conducting educational programs related to Native Americans as long as the display or program is not associated with a Native American mascot. The display or program may be associated with a Native American mascot if the public school has entered into an agreement with a Native American tribe under this section and the display or program is allowed under the agreement;

(b) Honoring the contributions of Native Americans by naming a school, building or program after a Native American.

(6) Each school district, education service district or sponsor of a public charter school shall notify:

(a) On or before January 1, 2013, the Department of Education if any school operated by the district or sponsor uses a Native American Mascot; and

(b) On or before July 1, 2017, the Department of Education when a new mascot is adopted for the public school.

(7) The Superintendent of Public Instruction shall find any school district, education service district or public charter school that violates this section to be in noncompliance with the discrimination prohibitions under ORS 659.855. Pursuant to ORS 659.855, the Superintendent may immediately withhold all or part of state funding from the school district, education service district or public charter school.

Stat. Auth. ORS 326.051, 659.850 & 659.855

Stats. Implemented: ORS 326.051, 338.115, 659.850 & 659.855

Hist.: ODE 16-2012, f. 6-8-12, cert. ef. 6-11-12; ODE 15-2016, f. & cert. ef. 3-22-16

581-021-0049

Hearings and Appeals

(1) Districts shall adopt written procedures for the prompt resolution of complaints of discrimination. Persons may, after exhausting local grievance procedures or 90 days (whichever occurs first) appeal in writing to the Superintendent of Public Instruction. The Superintendent shall review the local school district procedures and findings of fact to determine if proper procedures were followed and what action if any shall be taken. In making this determination, the Superintendent may decide:

(a) No substantial evidence exists for the charges of discrimination, and no further action will be taken;

(b) Discrimination may exist, and conciliation will be attempted to reach agreement by both parties.

(2)(a) If conciliation fails to resolve the parties' differences within 30 days, the Superintendent shall promptly establish a date for a hearing on the complaint. Said hearing shall be conducted within 30 days of failure of conciliation unless both parties agree to an extension of the period. The hearing shall be conducted in accordance with provisions of Oregon's Administrative Procedures Act;

(b) In conducting a hearing required by this rule, the Superintendent of Public Instruction shall determine if a local district is in compliance with the provisions of ORS 659.850.

(3) When a complaint of discrimination has been appealed to the Superintendent of Public Instruction, and the district has been found not to be in compliance with ORS 659.850, the Superintendent of Public Instruction shall issue an order requiring compliance within 30 days. If the district does not comply within 30 days, the Superintendent of Public Instruction shall order appropriate remedies which may include:

(a) Withholding of all or part of each quarterly payment of the basic school support fund due the district under ORS 327.095;

(b) Daily fines assessed against the district;

(c) Forbidding the district to participate in interschool activities;

(d) Other appropriate remedies.

(4) The Superintendent of Public Instruction shall report such action to the Oregon Board of Education at its next regular meeting.

(5) Notwithstanding sections (1) and (3) of this rule, in discrimination matters alleging a denial of participation in season athletic activities wherein adherence with the local district's grievance

procedure would prejudice the interest of complainant, either party may shorten the applicable timelines set forth in this rule by serving notice by first class mail upon the other party and the Superintendent of Public Instruction in substantially the following form:

In the Matter of the NOTICE OF Discrimination Complaint MODIFICATION OF TIME of _____

You are hereby notified that timelines set forth in OAR 581-021-0049 for this matter are hereby modified for the reason set forth in OAR 581-021-0049(5).

Upon the third day from the postmark of this notice OAR 581-021-0049 shall be modified as follows:

1. In Section (1) "90 days" shall be "10 days."

2. In Section (3) "30 days" shall be "10 days."

In the event that more than one party shall serve the above notice, the notice postmarked first shall control the applicable timeline.

Stat. Auth.: ORS 659.850

Stats. Implemented: ORS 326.051 & 659.850

Hist.: 1EB 252, f. & ef. 9-30-76; 1EB 11-1984, f. & ef. 4-17-84

581-021-0050

Minimum Standards for Student Conduct and Discipline

(1) School district boards shall prepare written rules of pupil conduct and discipline that shall include, but not necessarily be limited to, the following topics:

(a) Assembly of students;

(b) Dress and grooming;

(c) Motorized and nonmotorized vehicles;

(d) Search and seizure;

(e) Attendance;

(f) Freedom of expression;

(g) Alcohol, drugs, and tobacco;

(h) Student records;

(i) Discipline, suspension, and expulsion.

(2) School district rules pertaining to these topics shall include statements on student rights, responsibilities, and conditions which create a need for these rules.

Stat. Auth.: ORS 339

Stats. Implemented: ORS 339.240

Hist.: 1EB 132, f. 5-19-72, ef. 6-1-72; 1EB 230, f. & ef. 6-4-76; 1EB 252, f. & ef. 9-30-76; EB 26-1989(Temp), f. & cert. ef. 9-8-89; EB 18-1990, f. & cert. ef. 4-5-90

581-021-0055

Standards of Conduct

(1) Students shall comply with the written rules of the school district board, pursue the prescribed course of study, submit to the lawful authority of teachers and school officials, and conduct themselves in an orderly fashion.

(2) Students shall be liable to discipline, suspension, or expulsion for misconduct, including but not limited to:

(a) Theft;

(b) Disruption of the school;

(c) Damage or destruction of school property;

(d) Damage or destruction of private property on school premises or during a school activity;

(e) Assault or threats of harm;

(f) Unauthorized use of weapons or dangerous instruments;

(g) Unlawful use of drugs, narcotics, or alcoholic beverages;

(h) Persistent failure to comply with rules of the lawful directions of teachers or school officials.

Stat. Auth.: ORS 339

Stats. Implemented: ORS 339.250

Hist.: 1EB 132, f. 5-19-72, ef. 6-1-72; 1EB 230, f. & ef. 6-4-76

581-021-0059

Model Programs for Disruptive Students

(1) The purpose of this rule is to establish a two-year pilot program by which school district boards may adopt a program to address the problems of disruptive students in schools.

(2) Definitions — For the purpose of this rule, the following definitions shall apply:

(a) "School district" means the school district where the student is attending school.

(b) "Serious offense" means a violation of school district policies and procedures on:

- (A) Alcohol or drugs;
- (B) Arson;
- (C) Assault;
- (D) Firearms;
- (E) Extortion;
- (F) Harassment;
- (G) Intimidation or menacing;
- (H) Knives;
- (I) Reckless endangering;
- (J) Sexual harassment;
- (K) Theft;
- (L) Vandalism; or
- (M) Weapons.

(c) "Disruptive student" means a student who has been found to have committed a serious offense as defined in the rule, while on the school property, at a school sponsored activity or at an interscholastic activity sponsored by a voluntary organization approved by the State Board of Education.

(3) Pilot programs developed under this rule shall be established in not more than five school districts and may include, but not be limited to, the following:

- (a) Counseling services, including rehabilitation counseling;
- (b) Social work services; and
- (c) A parent counseling and training class that may be provided by a county or program provider.

(4) A School district may apply to the Department of Education to be a pilot program. The application shall include, but not be limited to:

- (a) A timeline for the implementation of the pilot program;
- (b) A description of services provided to students and their parents who participate in the pilot program;
- (c) Policy and procedures for selection of students and parents who will participate in the pilot program;
- (d) Program services that are appropriate to meet the students' and parents' needs.

(5) The school district shall report the progress of their pilot program to the Department of Education. The first report shall be December, 1998 with subsequent reports March 1999, July 1999, December 1999 and June 2000.

(6) If a student is expelled for a serious offense, the school district may require the parents and the student to participate in appropriate program services to assist the student and parents to address problems with the student's disruptive behavior and to help the student to benefit from their educational setting.

(7) Pilot programs may be monitored by the Department of Education.

(8) Students in special education and the parents of the students shall be exempted from this program.

Stat. Auth.: ORS 326.051

Stats. Implemented: Ch. 613, Sec. 1 & 2, 1997 OL

Hist.: ODE 2-1998, f. & cert. ef. 2-27-98

581-021-0060

Discipline Procedures, Prohibition of Corporal Punishment

(1) School district boards shall establish fair and reasonable procedures for discipline, suspension, or expulsion.

(2) No student in Oregon shall be subjected to corporal punishment in any public elementary or secondary school. A school administrator is not authorized to waive the prohibition against corporal punishment based upon the request of a parent or guardian.

Stat. Auth.: ORS 339

Stats. Implemented: ORS 339.250

Hist.: 1EB 132, f. 5-19-72, ef. 6-1-72; 1EB 259, f. 1-31-77, ef. 2-1-77; EB 27-1989(Temp), f. & cert. ef. 9-8-89; EB 19-1990, f. & cert. ef. 4-5-90

581-021-0061

Corporal Punishment

(1) Corporal punishment is any act which willfully inflicts or willfully causes the infliction of physical pain on a student.

(2) Corporal punishment does not include physical pain or discomfort resulting from or caused by:

(a) Training for or participation in athletic competition voluntarily engaged in by a student;

(b) Recreational activity voluntarily engaged in by a student;

(c) Physical exertion shared by all students in a teacher directed class activity, which may include, but is not limited to, physical education exercises, field trips, or vocational education projects; or

(d) Physical restraint or seclusion when used as provided in ORS 339.291 and OAR 581-021-0553.

Stat. Auth.: ORS 339

Stats. Implemented: ORS 339.250

Hist.: ED 25-1989(Temp), f. & cert. ef. 9-8-89; EB 20-1990, f. & cert. ef. 4-5-90; ODE 17-2006, f. 12-11-06, cert. ef. 12-12-06; ODE 5-2015, f. & cert. ef. 3-11-15

581-021-0065

Suspension

(1) Students may be suspended when such suspension contains within its procedures the elements of prior notice (OAR 581-021-0075), specification of charges, and an opportunity for the student to present his or her view of the alleged misconduct. The suspending official shall notify the student's parent or guardian of the suspension, the conditions for reinstatement, and appeal procedures, where applicable. These procedures may be postponed in emergency situations relating to health and safety.

(2) Emergency situations shall be limited to those instances where there is a serious risk that substantial harm will occur if suspension does not take place immediately.

(3) School district boards shall provide students suspended under emergency conditions with the rights outlined in section (1) of this rule as soon as the emergency condition has passed.

(4) In all suspensions ordered by the executive officer of the school district or designated representative, the district school board shall have the right of final review if the action is not taken by the school board itself.

(5) School district boards shall limit suspension to a specific maximum number of days. That maximum shall not exceed ten school days.

(6) School district boards shall adopt policies that require consideration of the age of a student and the past pattern of behavior of a student prior to imposing the suspension or expulsion of a student. For students in fifth grade or lower, the policies must limit the use of out-of-school suspension to the following circumstances:

(a) for non-accidental conduct causing serious physical harm to a student or school employee;

(b) when a school administrator determines, based upon the administrator's observation or upon a report from a school employee, that the student's conduct poses a direct threat to the health or safety of students or school employees; or

(c) when the suspension or expulsion is required by law

(7) When an out of school suspension is imposed for a student who is fifth grade or younger, district policies must require schools to take steps to prevent the recurrence of the behavior that led to the out-of-school suspension and return the student to a classroom setting so that the disruption of the student's academic instruction is minimized.

(8) School district boards or designated representatives shall specify the methods and conditions, if any, under which the student's school work can be made up. Students shall be allowed to make up school work upon their return from the suspension if that work reflects achievement over a greater period of time than the length of the suspension. For example, the students shall be allowed to make up final, mid-term, and unit examinations, without an academic penalty, but it is within the districts' discretion as to whether the students may be allowed to make up daily assignments, laboratory experiments, class discussions or presentations.

(9) In special circumstances a suspension may be continued until some specific pending action occurs, such as a physical or mental examination, or incarceration by court action.

Stat. Auth.: ORS 339.240

Stats. Implemented: ORS 339.240, 339.250 & 339.260

Hist.: 1EB 132, f. 5-19-72, ef. 6-1-72; 1EB 230, f. & ef. 6-4-76; EB 18-1991, f. & cert. ef. 9-9-91; EB 11-1996, f. & cert. ef. 6-26-96; ODE 17-2006, f. 12-11-06, cert. ef. 12-12-06; ODE 5-2016, f. & cert. ef. 2-5-16

581-021-0070

Expulsion

(1) Each district school board shall adopt written policies that limit the use of expulsion to the following circumstances:

(a) For conduct that poses a threat to the health or safety of students of school employees;

(b) When other strategies to change student conduct have been ineffective, except that expulsion may not be used to address truancy; or

(c) When the expulsion is required by law

(d) In addition to any limitations imposed by paragraphs (a) to (c) of this subsection, board policies must limit the use of expulsion for students in fifth grade or lower to the following circumstances:

(i) For nonaccidental conduct causing serious physical harm to a student or school employee;

(ii) When a school administrator determines, based upon the administrator's observation or upon a report from a school employee, that the student's conduct poses a direct threat to the health or safety of students or school employees;

(2) A school district board may expel, or delegate authority to a hearings officer to expel, a student provided the student is not expelled without a hearing unless the student's parent(s) or guardian, or the student, if 18 years of age, waives the right to a hearing. Waiver may take place by the parent or the student, if 18 years of age, notifying the school district in writing of waiver of the right to a hearing. Waiver may also take place by the parent, or the student, if age 18 or over, failing to appear after notice, at the place and time set for the hearing:

(a) If the school board acts to expel, the hearing may be conducted by a hearings officer designated by the board. In cases where the hearings officer is conducting the expulsion hearing for the board, the hearings officer shall provide to the board the findings as to the facts, the recommended decision and whether or not the student is guilty of the conduct alleged. This material shall be made available at the same time to the parent or guardian, and to the student, if age 18 or over;

(b) If the authority to expel a student is delegated to a hearings officer, the parent, or student, if age 18 or over, shall have the right upon appeal to a board review of the decision. If the decision is appealed to the board for review, the board shall be provided findings as to the facts and the decision of the hearings officer. This material shall be made available at the same time to the parent or guardian, and to the student, if age 18 or over. When appealed, the board will affirm, modify, or rescind the decision of the hearings officer.

(3) Student expulsion hearings shall be conducted pursuant to ORS 332.061.

(4) Expulsion hearing policies or rules shall contain provisions for the following:

(a) Notice to the student and to the parent or guardian shall be given by personal service or certified mail of the charge or charges and the specific facts that support the charge or charges. The notice shall include the statement of intent to consider the charges as reason for expulsion. Where notice is given by personal service, the person serving the notice shall file a return of service. Where notice is given by certified mail to a parent of a suspended student the notice shall be placed in the mail at least five days before the date of the hearing;

(b) Where the student or the student's parent cannot understand the spoken English language, an interpreter shall be provided by the district;

(c) The student may be represented by counsel or other persons;

(d) The student shall be permitted to introduce evidence by testimony, writings, or other exhibits;

(e) The student shall be permitted to be present and hear the evidence presented by the district;

(f) Strict rules of evidence shall not apply to the proceedings. However, this provision shall not limit the hearings officer's control of the hearing;

(g) The hearings officer or the student may make a record of the hearing.

Stat. Auth.: ORS 339

Stats. Implemented: ORS 339.240, 339.250 & 339.260

Hist.: 1EB 132, f. 5-19-72, ef. 6-1-72; 1EB 212, f. 1-20-76, ef. 2-25-76; 1EB 230, f. & ef. 6-4-76; 1EB 262, f. 6-2-77, ef. 6-3-77; ODE 3-2016, f. & cert. ef. 2-5-16

581-021-0071

District Information for Parents and Students Regarding the Availability of Alternative Education Programs

(1) The following definitions apply to this rule:

(a) "Erratic attendance" means the student is frequently absent to the degree that he/she is not benefiting from the educational program;

(b) "Notification" means written notice, by personal service or certified mail, to the parent or guardian and student as required by ORS 339.250(6).

(2) District school boards shall adopt policies and procedures for notification to students and parents, or guardians of the availability of appropriate and accessible alternative programs. This notification shall be provided in the following situations:

(a) Upon the occurrence of a second or any subsequent occurrence of a severe disciplinary problem within a three-year period;

(b) When the district finds a student's attendance pattern to be so erratic that the student is not benefiting from the educational program;

(c) When the district is considering expulsion as a disciplinary alternative;

(d) When a student is expelled pursuant to subsection (3) of ORS 339.250; and

(e) When an emancipated minor, parent, or legal guardian applies for a student's exemption from compulsory attendance on a semiannual basis as provided in ORS 339.030(5).

(3) The notification must include but is not limited to the following:

(a) Student action which is the basis for consideration of alternative education;

(b) Listing of alternative programs available to this student for which the district would provide financial support in accordance with ORS 339.620 except that when notice is given in accordance with subsection (2)(e) of this rule the district shall not be obligated to provide financial support;

(c) The program recommended for the student based on student's learning styles and needs;

(d) Procedures for enrolling the student in the recommended program; and

(e) When the parent or guardian's language is other than English, the district must provide notification in manner that the parent or guardian can understand.

(4) The district shall inform all parents or guardians of the law regarding alternative education and educational services available to students by such means as a statement in the student/parent handbook, notice in the newspaper, or an individual letter to a parent.

(5) District school boards shall adopt a procedure for parents or guardians to request establishment of alternative programs within the district.

(6) District school boards shall not approve the enrollment of a pupil in a private alternative program unless the private alternative program meets all requirements of OAR 581-021-0045.

Stat. Auth.: ORS 339

Stats. Implemented: ORS 339.250

Hist.: EB 35-1987, f. & ef. 12-11-87; EB 26-1990, f. & cert. ef. 5-18-90

581-021-0072

Registration of Private Alternative Programs/Schools

(1) All Sections of this rule apply to each private alternative education program approved by a school district board on or after

July 1, 2007. For the purposes of this rule, the term “program” includes “school.”

(2) For the purposes of ORS 336.635(1), all private alternative education programs receiving public school funds must comply with Private Alternative Education Standards established by the Oregon State Board of Education. Before contracting with or receiving public funds from any public school district, each private alternative program must register with the Oregon Department of Education (ODE) under this rule and must have an institution identification number assigned by the Department.

(3) New registration and renewal applications must be received by March 31 each year, beginning in 2008. Annually by March 1, the Oregon Department of Education will provide registration renewal application forms to private alternative programs registered with the Department.

(4) Each private alternative education program must apply to the Department for approval of registration renewal and the application for registration or renewal of registration must include information or documentation as required by the Department that the private alternative program meets:

(a) Local and state fire, safety, health and occupancy codes and standards;

(b) Health and safety standards and rules including, but not limited to, sanitation and prevention of communicable disease;

(c) The requirements of:

(A) OAR 581-022-1420 (emergency plans and safety programs);

(B) OAR 581-022-1430 (asbestos management plans);

(C) OAR 581-022-1440 (infectious diseases);

(D) ORS 339.870 and OAR 581-021-0037 (administration of medications);

(E) OAR 437-002-1910.1030 (Oregon Occupational Safety and Health Division — blood borne pathogens);

(F) OAR 581-022-0705 (health services);

(G) ORS 337.150, 339.141, 339.147 and 339.155 (tuition and fees);

(H) ORS 181.539, 326.603, 326.607, 336.631, and 342.232 (criminal records checks) for all subject individuals as defined in OAR 581-022-1730, including private alternative school/program owner/operators who have direct, unsupervised contact with students;

(I) ORS 433.235 through 433.284 and OAR 333-050-0010 through 333-050-0120 (immunization records and reports); and

(J) ORS 659.850 and 659.855 (discrimination).

(5) The annual application must also include assurances and verifying documentation, as required by the Department, that the private alternative program:

(a) Has a mission statement;

(b) Maintains commercial general liability insurance with policy limits of at least \$1,000,000 and annually provides ODE with requested information or documentation showing the name of the insurance company, the number of the insurance policy, the policy limits covered by the policy, and the effective term of the policy;

(c) Identifies the grade levels to be served;

(d) Identifies which students will be served consistent with OAR 581-022-1350(4)(a)(A);

(e) Assists the contracting district in meeting its planned K–12 instructional program in compliance with OAR 581-022-1210;

(f) Provides instruction in the academic content standards adopted by the State Board of Education and that students participate in district and state assessments of achievement for the grade level(s) the program serves;

(g) Assists students in earning diploma credits consistent with OAR 581-022-1130 and 581-022-1131;

(h) Uses curriculum content, teaching practices, facilities, and management practices that do not violate constitutional prohibitions on religious entanglement;

(i) Develops, implements, and, if necessary, modifies an education plan consistent with OAR 581-022-1120(3)(a) and (b), and 581-022-1130(3), Diploma Requirements, for each student approved for placement in the program by the student’s contracting district;

(j) In cooperation with each student’s contracting district and parent, guardian, or other responsible adult, includes criteria in the student’s education plan for determining if, how, when, and where the student may transition from the alternative education program;

(k) At least annually reports the results of each student’s performance on district-wide and state-wide assessments to the student, the student’s parents or legal guardians, and to the student’s contracting district;

(l) Collects and reports to each contracting district and the state the student’s local and state assessment, attendance, behavior, graduation, dropout, and other data required by the district and the state;

(m) If providing special education services or related services identified in any child’s IEP, is approved by the ODE under OAR 581-015-0126;

(n) Maintains the confidentiality of student records consistent with the Family Educational Rights and Privacy Act, 34 CFR 99 et. seq. and maintains student records in compliance with Oregon Administrative Rules on student records;

(o) The school shall provide training for all students which is designed to prevent child abuse.

(p) The school shall include training for all school employees on the prevention and identification of child abuse and on the obligations of school employees to report child abuse based on policies adopted by the school board or governing body. This training shall be updated and presented to all employees on an annual basis.

(q) The school shall make the training detailed in section (o) of this rule available to parents and legal guardians of children who attend a school operated by the education provider. The training shall be provided separately from the training provided to school employees under section (p) of this rule.

(r) Has procedures in place regarding staff hiring and evaluation that require:

(A) Checking personal and professional references for all potential employees;

(B) Criminal background checks in compliance with OAR 581-022-1730 and ORS 181.539, 326.603, 326.607 and 342.232 and to comply with section (9) of this rule, for all employees;

(C) A regular schedule of staff evaluations of the competencies of all employees that work with children; and

(D) Staff licensing/registration by the Oregon Teacher Standards and Practices Commission in compliance with OAR 584-036-0015;

(s) For purposes of claiming state school funds, has policies and procedures to ensure that:

(A) Students 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 are individually placed by the school district in the alternative education program under ORS 336.635 are accounted for in compliance with OAR 581-023-0006(7);

(B) Students enrolled in schools consistent with ORS 336.135 and students enrolled in nonpublic schools or taught by a private teacher or parent under ORS 339.035 and who are supplementing their home, private, or other instruction by attending the alternative program part-time are accounted for in compliance with OAR 581-023-0006(6)(a); and

(C) The activities claimed for state school funds by the program are one or more of those in OAR 581-023-0008 as approved by the contracting school district; and

(t) Complies with each statute, rule or school district policy specified in a contract between the school district board and the private alternative education program; and

(u) Notifies the ODE and each contracting public school district of any written complaint it receives alleging non-compliance with this private alternative program registration rule.

(6) Each annual renewal application must include a copy of the written annual evaluation of the applicant private alternative program completed by each contracting public school district for the prior school year.

(7) Each private alternative program must provide an annual statement of program expenditures to each contracting district consistent with ORS 336.635(2).

(8) The Oregon Department of Education may monitor the procedure used by the private alternative program for reporting Full Time Equivalent (FTE) student enrollment for the purposes of basic school support.

(9) The Department of Education may deny, suspend, or revoke a private alternative program registration consistent with OAR 581-021-0073.

(10) No registered private alternative school/program shall be owned by or employ an individual who is not of good moral character and reputation.

(a) Upon review by the Department, the Superintendent may find a person not to be of good moral character and reputation when the person:

(A) Has been convicted of a felony or a misdemeanor that involves the illegal use, sale or possession of a controlled substance, or that involves any sexual offense, or any violent offense;

(B) Has been convicted of an offense involving fraud or misrepresentation, or has committed fraud, misrepresentation, or deceit or has committed unfair, deceptive, or unlawful trade practices regulated by the Oregon Unlawful Trade Practices Act (ORS 646.605–646.652); or

(C) Is currently subject to suspension or revocation under OAR 581-021-0073.

(b) The Superintendent shall not make a finding that a person is not of good moral character and reputation solely for the reason that the person has been convicted of a crime, but shall consider the relationship of the facts that support the conviction and all intervening circumstances as they relate to the specific occupational standards and requirements.

(11) As of the effective date of this rule, the Private Alternative Education Standards adopted by the State Board of Education December 5, 2002, are rescinded and replaced by sections (2)-(5) of this rule.

Stat. Auth.: ORS 326.051, 327.125, 336.625

Stats. Implemented: ORS 181.539, 326.603, 326.607, 327.109, 336.615 - 336.665, 337.150

Hist.: EB 27-1990, f. & cert. ef. 5-18-90; ODE 2-1998, f. & cert. ef. 2-27-98; ODE 16-2003, f. & cert. ef. 8-26-03; ODE 12-2007, f. & cert. ef. 4-25-07; ODE 22-2007, f. & cert. ef. 10-26-07

581-021-0073

Denial, Suspension, or Revocation of Registration of Private Alternative Program/School Procedure

(1) A registration applied for or issued under OAR 581-021-0072, Registration of Private Alternative Programs/Schools, may be denied, suspended, or revoked or renewal thereof denied, if:

(a) the private alternative program/school fails to comply with the requirements of OAR 581-021-0072;

(b) the program or its agents intentionally or knowingly make false, deceptive, inaccurate, or misleading representations of fact in any oral, written, visual, or electronic presentation in connection with the registration under OAR 581-021-0072; or

(c) requested information is not furnished when required.

(2) Suspension of private alternative school/program registration may be for a period of up to one year from the time of the suspension.

(3) Revocation of private alternative school/program registration will be for a period of one year from the time of the revocation.

(4) Consistent with ORS 336.631, a school district may not contract with or distribute public school funds to a private alternative program whose registration has been denied, suspended, or revoked under this rule. A contract with a private alternative program must provide that non-compliance with a statute or rule, or suspension or revocation of registration under this rule will result in termination of the contract.

(5) Denial, suspension or revocation of private alternative education school/program registration may be appealed under the provisions of ORS 183.484.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 336.615 - 336.665, 183.413 - 183.497

581-021-0075

Distribution

(1) School district boards, or designated representatives, shall attempt to give widest possible distribution to their rules of pupil conduct and discipline in order that students may understand the expectations of the district.

(2) School districts shall make reasonable attempts to give a copy of their current rules to each student, and a copy of the current rules shall be posted in a prominent place in the schools of the district.

(3) School districts shall make these rules available to the general public upon request.

Stat. Auth.: ORS 339

Stats. Implemented: ORS 336.635

Hist.: 1EB 132, f. 5-19-72, ef. 6-1-72

581-021-0076

Exemption from Compulsory Attendance

(1) As used in this rule:

(a) "School" means any public school, education service district program, community college, college, university, public alternative program, registered private alternative program, technical or vocational school or training program, or being taught by a parent or private teacher pursuant to ORS 339.035;

(b) "Semiannual" means prior to the next vacation or reentry time in the school year but a minimum of two times per year;

(c) "Full-time work" means employment for 30 or more hours per week;

(d) "Full-time school" means attending an educational program for a period of time defined as one FTE under OAR 581-023-0005; enrolling in a community college, college or university for a minimum of 12 credit hours per term; receiving 20 hours of instruction per week in a technical or vocational school or training program; or being taught an equivalent period of time by a parent or private teacher pursuant to ORS 339.035;

(e) "Emancipated minor" means any child who is an emancipated minor or who has initiated the procedure for emancipation under ORS 109.550 to 109.565 (339.030(5));

(f) "Part-time work and part-time school" means a combination of work/education activities equivalent to 30 hours per week of involvement.

(2) The school district may grant exemption from compulsory attendance to the parent or legal guardian of a child who is 16 or 17 years of age or an emancipated minor, provided the child is:

(a) Employed full time;

(b) Employed part time and enrolled in a school part time; or

(c) Enrolled full time in a school.

(3) The request for exemption shall be in writing including documentation of the child's employment by the employer or enrollment status by the school. Additionally, the school shall request notification when the child's employment or the child's enrollment status is terminated.

(4) When considering a request for exemption from compulsory attendance, a school district shall conduct an interview that shall include, but need not be limited to, the following:

(a) Attendance by the child and the parent or legal guardian or the emancipated minor;

(b) Attendance by a school counselor or school administrator;

(c) Consideration of the reasons for the request; and

(d) Review of the following information about the child or emancipated minor:

(A) Credit for graduation;

(B) Grades;

(C) Current handicapping status, if applicable;

(D) Prior handicapping status, if applicable;

(E) Results of standardized tests;

(F) Teacher evaluations;

(G) Counselor appraisal;

(H) Immediate plans;

(I) Short-range and career goals; and

(J) Other relevant information.

(5) If the exemption from compulsory attendance is granted, the school district shall give the child and the parent or legal guardian the following information in writing:

(a) Alternative programs of instruction or instruction combined with counseling are available, as provided in ORS 339.250(6) and (7);

(b) The exemption is granted for a limited time, must be renewed on a semiannual basis and will be reviewed by the school district on a certain date; and

(c) The district shall notify the parent of the need to reapply for an exemption by a specific date or return the student to school until the child attains a high school diploma, GED, or the age of 18.

(6) The rule is effective July 1, 1990.

Stat. Auth.: ORS 339

Stats. Implemented: ORS 339.030

Hist.: EB 28-1990, f. & cert. ef. 5-18-90

581-021-0077

Compulsory Attendance Notices and Citation

(1) Definitions for purposes of this rule:

(a) "Parent" means parent, guardian or other person having control of a minor child who has not completed the 12th grade or is not otherwise legally exempt from compulsory attendance under ORS 339.030.

(b) "Student" means a minor between the ages of 7 and 18 who has not completed the 12th grade, and who is not exempt from compulsory attendance under ORS 339.030.

(c) "Superintendent" means the superintendent of a public school district or the superintendent's designee.

(d) "Attendance supervisor" means an official appointed under ORS 339.040.

(e) "Regular attendance" means attendance which does not include more than eight unexcused one-half day absences, or the equivalent thereof, in any four-week period in which the school is in session.

(2) Notice of Attendance Supervisor. When an attendance supervisor determines a parent has failed to enroll his or her child and to maintain such child in regular attendance at a public school, the attendance supervisor shall give written notification to the parent within 24 hours of being informed of the failure. The notice may be served personally or by certified mail.

(a) The notice shall state that the student must appear at the public school on the next school day following receipt of the notice and maintain regular attendance for the remainder of the school year.

(b) The notice shall state that the parent has the right to request for a child who does not have an Individualized Education Program, an evaluation to determine if the child should have an Individualized Education Program; or for a child who has an Individualized Education Program, a review of the Individualized Education Program.

(c) The attendance officer, at the time the notice is served to the parent, shall notify the district superintendent, principal or other appropriate school official.

(3) Notice of Superintendent. If the parent receiving the notice of the attendance supervisor does not comply with that notice, the attendance officer, within three days of knowledge of such non-compliance, shall notify the superintendent. Upon notification by the attendance officer, the superintendent may issue a citation as set forth in Attachment A of this rule.

(4) Prior to issuing the citation set forth in Attachment A, the superintendent, by personal service or certified mail, shall serve the parent written notification that:

(a) States that the student is required to regularly attend a full-time school;

(b) Explains that the failure to send the student and to maintain the student in regular attendance is a Class C violation;

(c) States that the superintendent may issue a citation;

(d) Requires the parent and the student to attend a conference with a designated school official; and

(e) States that the parent has the right to request for a child who does not have an Individualized Education Program, an evaluation to determine if the child should have an Individualized Education Program; or for a child who has an Individualized Education Program, a review of the Individualized Education Program.

(f) Is written in the native language of the parent or guardian of the student.

(5) The superintendent shall schedule the conference described in section (4)(d) of this rule. A conference may not be scheduled until after any evaluations or reviews described in in subsections 2(b) and 4(e) of this rule have been completed. If the parent does not attend the conference or fails to send the child to public school after the conference, the superintendent may issue a citation provided by the Department of Education in the form set forth as Attachment A which is incorporated by reference into this rule. The citation shall be served in person.

[ED. NOTE: Attachments referenced are available from the agency.]

Stat. Auth.: ORS 8.665, 153.110 - 153.310, 153.990, 339.010 - 339.090, 339.925 & 339.990

Stats. Implemented: ORS 339.090, 339.925, 339.990 & 8.665

Hist.: EB 33-1993(Temp), f. & cert. ef. 11-15-93; EB 4-1994, f. & cert. ef. 4-29-94; ODE 8-2000(Temp), f. 2-23-00, cert. ef. 2-23-00 thru 8-20-00; ODE 21-2000, f. & cert. ef. 5-23-00; ODE 8-2016, f. & cert. ef. 2-5-16

581-021-0100

School Traffic Patrols

(1) School traffic patrols will be operated in accordance with the guidelines described in the **Oregon Traffic Patrol Manual** published by the Oregon Department of Education.

(2) Upon a school district request, staff assigned to the School Traffic Patrol Program will distribute equipment supplied by the Oregon Highway Division; staff will also provide help for existing patrols, and help establish and train new patrols.

(3) A school district may request that section (1) of this rule be waived and that the district be allowed to operate a school traffic patrol in accordance with district guidelines. The State Superintendent of Public Instruction may approve such a waiver upon submission of evidence that by following district guidelines, school traffic patrols can be operated as efficiently and with no reduction in student safety as compared to guidelines in **Oregon Traffic Patrol Manual**.

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

Stat. Auth.: ORS 336

Stats. Implemented: ORS 339.660

Hist.: EB 9-1987, f. & ef. 5-12-87

581-021-0110

Tobacco Free Schools

(1) For the purpose of this rule "tobacco" is defined to include any lighted or unlighted cigarette, cigar, pipe, bidi, clove cigarette, and any other smoking product, and spit tobacco, also known as smokeless, dip, chew, and snuff, in any form.

(2) No student, staff member, or school visitor is permitted to smoke, inhale, dip, or chew or sell tobacco at any time, including non-school hours

(a) In any building, facility, or vehicle owned, leased, rented, or chartered by the school district, school, or public charter school; or

(b) On school grounds, athletic grounds, or parking lots.

(3) No student is permitted to possess a tobacco product:

(a) In any building, facility, or vehicle owned, leased, rented, or chartered by the school district, school, or public charter school; or

(b) On school grounds, athletic grounds, or parking lots.

(4) By January 1, 2006, school districts must establish policies and procedures to implement and enforce this rule for students, staff and visitors.

(5) For purposes of this rule, the term "school district" includes the Oregon School for the Deaf (OSD). The Oregon School for the Deaf must establish, in cooperation with the Oregon Department of Education, policies and procedures to implement and enforce this rule for students, staff and visitors by June 30, 2006.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: ODE 30-2004, f. 9-15-04, cert. ef. 9-20-04; ODE 8-2006, f. & cert. ef. 2-21-06; ODE 12-2009, f. & cert. ef. 12-10-09

581-021-0200

Standard Education for Oregon Students

A Standard Education for Oregon Students is comprised of:

(1) Common Curriculum Goals. The Common Curriculum Goals consist of:

(a) Essential Learning Skills. The Essential Learning Skills are those skills essential to learning and necessary for understanding in the subject matter areas. The skills are: Reading, writing, speaking, listening, mathematics, reasoning and study skills;

(b) Common Knowledge and Skills. The Common Knowledge and Skills consists of facts, concepts, principles, rules, procedures and methods of inquiry associated with the following subject matter areas:

- (A) English Language Arts;
- (B) Mathematics;
- (C) Health Education;
- (D) Science Education;
- (E) Physical Education;
- (F) Social Studies;
- (G) Music;
- (H) Art;
- (I) Personal Finance;
- (J) Second Language and Culture (proposed);
- (K) Career Education.

(2) Professional — Technical Education. Occupational preparation which blends the interests and aptitudes of students with the skills and experience needed to become employed, sustain economic independence and enter advanced education and training.

(3) Education Programs Mandated by State or Federal Law and Selected Other State Requirements Presently Constituted:

(a) The approximately 30 programs mandated by state statutes are in two categories, instruction and support. They include a diverse range of requirements such as protection of trees and shrubs, commemorating women in history, providing free textbooks, programs for talented and gifted students, transportation and properly maintained buildings and grounds;

(b) The three federally mandated programs are: The Asbestos Hazard Emergency Act of 1986, as amended; The Individuals With Disabilities Act, PL 101-476, that all children with disabilities have an opportunity for a free appropriate public education; The Family Education Rights and Privacy Act, PL 93-380, as amended by PL 93-568, that imposes certain requirements and restrictions on the release of student records;

(c) The following state requirements contained in OAR chapter 581, division 022:

- (A) Goals for Elementary and Secondary Education;
- (B) Graduation Requirements;
- (C) Education of Talented and Gifted;
- (D) Required Days of Instruction;
- (E) Required Instructional Time;
- (F) Kindergarten Programs;
- (G) Standardization;
- (H) Alternative Education Program;
- (I) Special Education Program;
- (J) Library Media Skills Instruction.

(4) Character Education. Character Education is the process of helping students develop and practice the core ethical values that our diverse society shares and holds important. These values include, but are not limited to, respect, responsibility, caring, trustworthiness, justice and fairness, and civic virtue and citizenship.

(5) Student Activities under the auspices of the secondary schools, which include the following:

- (a) Student Government;
- (b) Preparation of School Publications; e.g., newspaper, year-book, literary magazine;
- (c) Drama;
- (d) Performing Music/Dance Groups;
- (e) Interscholastic Athletics;

(f) Intramurals;

(g) Rally Squad/Dance Team/Flag Line;

(h) Competitive Speech and Debate;

(i) Instruction program-related clubs or organizations; e.g., Distributive Education Club of America, Future Business Leaders of America, Future Farmers of America, Home Economics Related Occupations, Vocational Industrial Clubs of America.

(6) International Understanding. International Understanding represents the knowledge, skills and attitudes needed to live effectively in a world possessing limited natural resources and characterized by ethnic diversity, cultural pluralism and an increased interdependence. Such knowledge, skills and attitudes are developed through broad exposure to international content in all subject areas and through learning a second language.

(7) Support Services Necessary to Provide a Standard Education for Oregon Students:

(a) Student Services:

(A) Improving attendance;

(B) Counseling;

(C) Providing health services;

(D) Treating students with speech and hearing disabilities;

(E) Providing library, audio/video, television and computer learning.

(b) Staff Services:

(A) Measuring student achievement;

(B) Developing curriculum and training staff.

(c) Administrative Services:

(A) Administering the district and individual schools;

(B) Planning, research, processing of data.

(d) Business Services:

(A) Budgeting, payroll, inventory, internal audit;

(B) Buying and storing of supplies;

(C) Printing.

(e) Transportation Services:

(A) Providing home-to-school transportation for both students with and students without disabilities;

(B) Transporting students to co-curricular activities.

(f) Food Services: Offering students nutritional lunches and breakfasts;

(g) Operation and Maintenance Services: Keeping buildings, equipment and grounds safe, working and in good condition.

Stat. Auth.: ORS 326.400, 326.410 & 336.067

Stats. Implemented: ORS 336.067

Hist.: EB 3-1991, f. & cert. ef. 2-28-91; EB 7-1993, f. & cert. ef. 2-11-93; ODE 26-2008, f. 10-23-08, cert. ef. 10-24-08

581-021-0210

Evaluating Student Transcripts

When evaluating student transcripts, the school district shall:

(1) Accept credits and attendance completed in standard Oregon schools as if they had been earned in the enrolling district consistent with OAR 581-022-1131;

(2) For out-of-state transfer students, accept credits and attendance completed in standard secondary schools as if the requirements had been completed in this state consistent with OAR 581-022-1131;

(3) For transfer students who are dependents of an active duty or deployed member in the uniformed service of the United States, accept credits and attendance as if the requirements had been completed in this state consistent with OAR 581-022-1131.

(a) For purposes of this rule, "active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard or the military reserve forces who are on active duty orders pursuant to 10 U.S.C. 1209 and 1211 or 32 U.S.C. 502(f) Active Guard/Reserve status.

(b) For purposes of this rule, "deployed" means that period of time spanning one month prior to a service member's departure from his or her home station on military orders through six months after return to his or her home station.

(4) For students from private, alternative, or nonstandard public secondary schools:

(a) Determine the value of prior credits consistent with OAR 581-022-1131; and

(b) Determine the number of years of school attendance or equivalent.

(5) Determine placement for students enrolled in kindergarten through grade 8;

(6) Determine the value of credits obtained through home school-based courses, on-line or other distance learning methods in meeting the graduation requirements consistent with OAR 581-022-1131; and

(7) Determine the value of credits obtained in approved community college programs in meeting graduation requirements consistent with OAR 581-022-1131.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051 & 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; ODE 15-2010, f. & cert. ef. 11-15-10

581-021-0220

Definitions

As used in OAR 581-021-0220 through 581-021-0440, the following definitions apply:

(1) "Attendance" includes, but is not limited to:

(a) Attendance in person or by correspondence; and

(b) The period during which a person is working under a work-study program.

(2) "Directory Information" means those items of personally identifiable information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. Directory information may include, and is not limited to, the student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended. (3) "Disclosure" means to permit access to or the release, transfer, or other communication of education records, or the personally identifiable information contained in those records, to any party, by any means, including oral, written, or electronic means.

(4) "Disciplinary action or proceeding" means the investigation, adjudication, or imposition of sanctions by an educational agency or institution with respect to an infraction or violation of the internal rules of conduct applicable to students of the agency or institution.

(5) "Educational Agency or Institution" means any public or private school, education service district, state institution, private agency or youth care center providing educational services to students birth through age 21, and through Grade 12, that receives federal or state funds either directly or by contract or subcontract with the Department under any program administered by the U.S. Secretary of Education or the Department.

(6) "Education Records":

(a) The term means those records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution;

(b) The term does not include:

(A) Records of instructional, supervisory, and administrative personnel and educational personnel ancillary to those persons that are kept in the sole possession of the maker of the record, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;

(B) Records of the law enforcement unit of an educational agency or institution, subject to the provisions of OAR 581-021-0225.

(C) Records relating to an individual who is employed by an educational agency or institution, that are made and maintained in the normal course of business, that relate exclusively to the individual in that individual's capacity as an employee and that are not available for use for any other purpose. Records relating to an individual in attendance at the agency or institution who is

employed as a result of his or her status as a student are education records and not excepted under this subsection;

(D) Records on a student who is 18 years of age or older, or is attending an institution of postsecondary education, that are:

(i) Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;

(ii) Made, maintained, or used only in connection with treatment of the student; and

(iii) Disclosed only to individuals providing the treatment. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution.

(E) Records that only contain information relating to activities in which an individual engaged after he or she is no longer a student at that agency or institution;

(F) Medical or nursing records which are made or maintained separately and solely by a licensed health care professional who is not employed by the educational agency or institution, and which are not used for education purposes of planning.

(7) "Eligible Student" means a student who has reached 18 years of age, or a student who is attending only an institution of postsecondary education and is not enrolled in a secondary school.

(8) "Institution of Postsecondary Education" means an institution that provides education to students beyond the secondary school level; "secondary school level" means the educational level (not beyond Grade 12) at which secondary education is provided.

(9) "Parent" means a parent of a student and includes a natural parent, a guardian, an individual authorized in writing to act as a parent in the absence of a parent or a guardian, or a surrogate parent appointed to represent a student with disabilities. The term does not include the state if the child is a ward of the state and the student is eligible for special education services or is suspected of being eligible for special education services under state and federal law.

(10) "Party" means an individual, agency, institution, or organization.

(11) "Permanent record" means the educational record maintained by the educational agency or institution which includes:

(a) Name and address of the educational agency or institution;

(b) Full legal name of the student;

(c) Student's birth date and place of birth;

(d) Name of parents/guardians;

(e) Date of entry into the school;

(f) Name of school previously attended;

(g) Courses of study and marks received;

(h) Data documenting a student's progress toward achievement of state standards and must include a student's Oregon State Assessment results;

(i) Credits earned;

(j) Attendance;

(k) Date of withdrawal from school;

(l) Social security number, subject to subsection (1)(j) of this rule; and

(m) Such additional information as the educational agency or institution may prescribe.

(12) "Personally Identifiable Information" is information as defined in the Family Educational Rights and Privacy Act (FERPA) and OAR 581-015-2700, this includes but is not limited to:

(a) The student's name;

(b) The name of the student's parent or other family member;

(c) The address of the student or student's family;

(d) A personal identifier, such as the student's social security number or student number;

(e) A list of personal characteristics that would make the student's identity easily traceable; and

(f) Other information that would make the student's identity easily traceable.

(13) "Record" means any information recorded in any way including, but not limited to, handwriting, print, tape, film, microfilm and microfiche.

(14) "Student" means any individual who is or has been in attendance at an educational agency or institution and regarding whom the agency or institution maintains education records.

(15) "Substitute care program" means family foster care, family group home care, parole foster care, family shelter care, adolescent shelter care and professional group care.

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

Stat. Auth.: ORS 326.565 & 34 CFR § 99.3

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; EB 20-1995, f. & cert. ef. 7-25-95; ODE 8-2007, f. & cert. ef. 3-1-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-021-0225

Records of Law Enforcement Units

(1) "Law enforcement unit" means any individual, office, department, division, or other component of an educational agency or institution, such as a unit of commissioned police officers or noncommissioned security guards, that is officially authorized or designated by that agency or institution to:

(a) Enforce any local, state, or federal law, or refer to appropriate authorities a matter for enforcement of any local, state, or federal law against any individual or organization other than the agency or institution itself; or

(b) Maintain the physical security and safety of the agency or institution.

(2) A component of an educational agency or institution does not lose its status as a law enforcement unit if it also performs other, nonlaw enforcement functions for the agency or institution, including investigation of incidents or conduct that constitutes or leads to a disciplinary action or proceedings against the student.

(3) Records of a law enforcement unit means those records, files, documents, and other materials that are:

(a) Created by a law enforcement unit;

(b) Created for a law enforcement purpose; and

(c) Maintained by the law enforcement unit.

(4) Records of a law enforcement unit does not mean:

(a) Records created by a law enforcement unit for a law enforcement purpose that are maintained by a component of the educational agency or institution other than the law enforcement unit; or

(b) Records created and maintained by a law enforcement unit exclusively for a nonlaw enforcement purpose, such as a disciplinary action or proceeding conducted by the educational agency or institution.

(5) Nothing in this rule prohibits an educational agency or institution from contacting its law enforcement unit, orally or in writing, for the purpose of asking that unit to investigate a possible violation of, or to enforce, any local, state, or federal law.

(6) Education records, and personally identifiable information contained in education records, do not lose their status as education records and remain subject to the Act, including the disclosure provisions of OAR 581-021-0330, while in the possession of the law enforcement unit.

(7) This rule neither requires nor prohibits the disclosure by an educational agency or institution of its law enforcement unit records.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.8

Stats. Implemented:

Hist.: EB 20-1995, f. & cert. ef. 7-25-95

581-021-0230

The Rights of Parents

An educational agency or institution shall give full rights under OAR 581-021-0220 through 581-021-0420 to either parent, unless the agency or institution has been provided with evidence that there is a court order, state statute, or legally binding document relating to such matters as divorce, separation, or custody that specifically revokes these rights.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.4

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94

581-021-0240

The Rights of Eligible Students

When a student becomes an eligible student, the rights accorded to, and consent required of, parents under OAR 581-021-0220 through 581-021-0420 transfer from the parents to the student. Nothing prevents educational agencies or institutions from giving students rights in addition to those given to parents.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.5

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94

581-021-0250

An Educational Agency or Institution's Policy Regarding Student Education Records

(1) Each educational agency or institution shall adopt a policy regarding how the agency or institution meets the requirements of OARs 581-021-0220 through 581-021-0430. The policy shall include:

(a) A description of how the agency or institution annually informs parents and students of their rights, in accordance with OAR 581-021-0260;

(b) A description of how a parent or eligible student may inspect and review education records according to OAR 581-021-0270;

(c) A statement that personally identifiable information will not be released from an education record without the prior written consent of the parent or eligible student according to 581-021-0330, except under one or more of the conditions described in 581-021-0340;

(d) A statement indicating whether the educational agency or institution has a policy of disclosing personally identifiable information under OAR 581-021-0340(1), and, if so, a specification of the criteria for determining which parties are school officials and what the agency or institution considers to be a legitimate educational interest. With respect to students with disabilities, each educational agency or institution shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who have access to personally identifiable information;

(e) A statement that a record of disclosures will be maintained as required by OAR 581-021-0400, and that a parent or eligible student may inspect and review that record;

(f) Specification by the educational agency or institution of the types of personally identifiable information the agency or institution has designated as directory information under OAR 581-021-0390;

(g) A statement that the agency or institution permits a parent or eligible student to request correction of the student's education records under OAR 581-021-0300, to obtain a hearing under 581-021-0310(1), and to add a statement to the record under 581-021-0310(3);

(h) A statement that the educational agency or institution, as required by OAR 581-021-0260, annually notifies parents and eligible students of their rights to review and propose amendments to the student's education records;

(i) A statement that the educational agency or institution maintains a permanent record on each student;

(j) A statement that the educational agency or institution will request the social security number of a student and will include the social security number on the permanent student record only if the parent or eligible student complies with the request. The request shall include notification to the parent or eligible student that the provision of the social security number is voluntary and notification of the purposes for which the social security number will be used;

(k) A statement that the educational agency or institution provides for the retention of permanent records in a minimum one-hour fire-safe place in the educational agency or institution, or for

keeping duplicate permanent records in a safe depository outside the building;

(l) A statement that the education agency or institution complies with OAR 581-021-0255 on the request for and transfer of student education records; and

(m) A statement that the educational agency or institution has a policy of disclosing personally identifiable information from an education record to an ESD, state regional program, or other educational agency or institution that has requested the records and in which the student seeks or intends to enroll or is enrolled or receives services from. The term “receives services” includes, but is not limited to, an evaluation or re-evaluation for purposes of determining whether a student has a disability.

(2) For purposes of subsection (1)(l) of this rule:

(a) “Private agency” means an agency with which the Department of Education contracts under ORS 343.961; and

(b) “Youth care center” means a center as defined in ORS 420.855.

(3) The educational agency or institution shall state the policy in writing and make a copy of it available on request to a parent or eligible student.

Stat. Auth.: ORS 326.565, 34 CFR § 99.6, 34 CFR 300.616

Stats. Implemented: ORS 326.565 & 326.575

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; EB 20-1995, f. & cert. ef. 7-25-95; EB 12-1997(Temp), f. & cert. ef. 8-28-97; ODE 4-1998, f. & cert. ef. 2-27-98; ODE 10-1998, f. & cert. ef. 6-23-98; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0255

Transfer of Student Education Records

(1) Within ten days of a student seeking enrollment in or services from a public or private school including an ESD, or when a student is placed in a state institution other than an institution of postsecondary education, or a private agency or youth care center (hereinafter referred to as the new educational agency), the new educational agency must notify the public or private school, education service district, institution, agency, or youth care center in which the student was formerly enrolled (hereinafter referred to as the former educational agency), and request the student’s education records.

(2) The former educational agency must transfer all requested student education records to the new educational agency no later than 10 days after receiving the request.

(3) The education records transferred to the new educational agency must include any education records relating to the particular student retained by an education service district.

(4) The educational agency must retain originals of student education records for the time periods and under the conditions described in the record retention rule, OAR 166-400-0060, except that originals shall be transferred to a new education agency upon request.

(5) When original records have been transferred to a new educational agency as required in subsection (2) of this rule, readable photocopies of the following documents must be retained by the former educational agency or institution for the time periods and under the conditions as prescribed in the record retention rule, OAR 166-400-0060:

(a) The student’s permanent record as defined in subsection (11) of OAR 581-021-0220; and

(b) Such special education records as are necessary to document compliance with state and federal audits.

(6) Notwithstanding subsections (1) and (2) of this section, for students who are in substitute care programs:

(a) A school, institution, agency, facility or center shall notify the school, institution, agency, facility or center in which the student was formerly enrolled and shall request the student’s education records within five days of the student seeking initial enrollment; and

(b) Any school, institution, agency, facility or center receiving a request for a student’s education records shall transfer all student education records relating to the particular student to the requesting

school, institution, agency, facility or center no later than five days after the receipt of the request.

Stat. Auth.: ORS 326.565, 34 CFR § 99.6

Stats. Implemented: ORS 326.565

Hist.: ODE 8-2007, f. & cert. ef. 3-1-07; ODE 17-2011, f. 12-15-11, cert. ef. 1-1-12

581-021-0260

An Educational Agency or Institution’s Annual Notification

(1) Each educational agency or institution shall annually notify parents of students currently in attendance, and eligible students currently in attendance, at the agency or institution of their rights under OAR 581-021-0220 through 581-021-0440.

(2) The notice must inform parents and eligible students that they have a right to:

(a) Inspect and review the student’s education records;

(b) Request the amendment of the student’s education records to ensure that they are not inaccurate, misleading, or otherwise in violation of the student’s privacy or other rights;

(c) Consent to disclosures of personally identifiable information contained in the student’s education records, except to the extent that these rules authorize disclosure without consent;

(d) Pursuant to OAR 581-021-0410, file with the U.S. Department of Education a complaint under 34 CFR § 99.64 concerning alleged failures by the agency or institution to comply with the requirements of the Family Educational Rights and Privacy Act; and

(e) Obtain a copy of the policy adopted under OAR 581-021-0250.

(3) The notice must include all of the following:

(a) The procedure for exercising the right to inspect and review education records.

(b) The procedure for requesting amendment of records under OAR 581-021-0300;

(c) Regarding disclosure of education records to school officials and teachers within the education agency whom the agency has determined to have legitimate educational interest, a specification of the criteria for determining who constitutes a school official and what constitutes a legitimate educational interest;

(4) Each educational agency or institution shall annually notify parents and eligible students of what it considers to be directory information and the conditions for disclosure of such information as provided in OAR 581-021-0390.

(5) Each educational agency or institution shall annually notify parents or eligible students that it forwards education records requested under OAR 581-021-0250(1)(m) and (p) within 10 days of receiving the request.

(6) The notice provided under section (1) of this rule must also indicate the places where copies of the policy adopted under OAR 581-021-0250 are located.

(7) An educational agency or institution may provide this notice by any means that are reasonably likely to inform the parents and eligible students of their rights;

(8) An agency or institution of elementary or secondary education shall effectively notify parents of students who have a primary or home language other than English.

(9) An educational agency or institution shall effectively notify parents or eligible students who have a disability.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 326.565 & 34 CFR § 99.7

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; EB 20-1995, f. & cert. ef. 7-25-95; ODE 8-2007, f. & cert. ef. 3-1-07; ODE 26-2008, f. 10-23-08, cert. ef. 10-24-08

581-021-0265

Confidentiality of Student Education Records

(1) Each school district shall keep confidential any record maintained on a child with a disability in conformance with OAR 581-021-0220 through 581-021-0440.

(2) Each school district shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

(3) One official at each school district shall assume responsibility for ensuring the confidentiality of any personally identifiable information.

(4) All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under OAR 581-015-0055 through 581-015-0606 and 581-021-0220 through 581-021-0440.

Stat. Auth.: ORS 343.041, 343.045, 343.055, 34 CFR Sec 99.7

Stats. Implemented: ORS 343.045, 343.155

Hist.: ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0270

Rights of Inspection and Review of Education Records

(1) Except as limited under FERPA and IDEA, each educational agency or institution shall permit a parent, an eligible student, or a representative of a parent if authorized in writing by the parent, to inspect and review the education records of the student.

(2) The educational agency or institution shall comply with a request for access to records:

(a) Within a reasonable period of time and without unnecessary delay;

(b) For children with disabilities under OAR 581-015-0051, before any meeting regarding an IEP, or any due process hearing, or any resolution session related to a due process hearing; and

(c) In no case more than 45 days after it has received the request.

(d) For children under three years old who receive EI services, in no case more than 10 days after the request has been made.

(3) The educational agency or institution shall respond to the reasonable requests for explanations and interpretations of the records.

(4) If a parent or an eligible student so requests, the educational agency or institution shall give the parent or eligible student a copy of the student's education records pursuant to ORS 192.440, except that no copy of test protocols, test questions and answers, and other documents described in 192.501(4) shall be provided unless authorized by federal law.

(5) The educational agency or institution shall not destroy any education records if there is an outstanding request to inspect and review the records under this rule.

(6) While an education agency or institution is not required to give an eligible student access to treatment records under the definition of "education records" in OAR 581-021-0220(6)(b)(D), the student may, at his or her expense, have those records reviewed by a physician or other appropriate professional of the student's choice.

Stat. Auth.: ORS 192.440, 192.501(4), 326.565 & 34 CFR § 99.10, 34 CFR 303.405(a)

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; EB 20-1995, f. & cert. ef. 7-25-95; ODE 8-2007, f. & cert. ef. 3-1-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-021-0280

Fees for Copies of Education Records

(1) Student records are public records under ORS 192.410 through 192.505 but are exempt from disclosure except as authorized by OAR 581-021-0220 through 581-021-0440.

(2) Unless the imposition of a fee effectively prevents a parent or eligible student from exercising the right to inspect and review the student's education records, an educational agency or institution may charge a fee for a copy of an educational record which is made for the parent or eligible student subject to section (3) of this rule.

(3) Notwithstanding ORS 192.440(3), an educational agency or institution may not charge a fee to search for or to retrieve the education records of a student.

Stat. Auth.: ORS 192.410 - 192.505, 326.565 & 34 CFR § 99.11

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94

581-021-0290

Limitations on the Right to Inspect and Review Records

If the education records of a student contain information on more than one student, the parent or eligible student may inspect, review, or be informed of only the specific information about that student.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.12

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94

581-021-0300

A Parent or Eligible Student's Request for Amendment of a Student's Education Records

(1) If a parent or eligible student believes the education records relating to the student contain information that is inaccurate, misleading, or in violation of the student's rights of privacy or other rights, he or she may ask the educational agency or institution to amend the record.

(2) The educational agency or institution shall decide whether to amend the record as requested within a reasonable time after the agency or institution receives the request.

(3) If the educational agency or institution decides not to amend the record as requested, it shall inform the parent or eligible student of its decision and of his or her right to a hearing under OAR 581-021-0310.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.20

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94

581-021-0310

Right to a Hearing to Challenge Content

(1) An educational agency or institution shall give a parent or eligible student, on request, an opportunity for a hearing to challenge the content of the student's education records on the grounds that the information contained in the education records is inaccurate, misleading, or in violation of the privacy or other rights of the student.

(2) If, as a result of the hearing, the educational agency or institution decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall:

(a) Amend the record accordingly; and

(b) Inform the parent or eligible student of the amendment in writing.

(3) If, as a result of the hearing, the educational agency or institution decides that the information in the education record is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall inform the parent or eligible student of the right to place a statement in the record commenting on the contested information in the record or stating why he or she disagrees with the decision of the educational agency or institution, or both.

(4) If an educational agency or institution places a statement in the education records of a student under section (3) of this rule, the agency or institution shall:

(a) Maintain the statement with the contested part of the record for as long as the record is maintained; and

(b) Disclose the statement whenever it discloses the portion of the record to which the statement relates.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.21

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94

581-021-0320

Minimum Requirements for the Conduct of a Hearing

The hearing required by OAR 581-021-0310 must meet at a minimum the following requirements:

(1) The educational agency or institution shall hold the hearing within a reasonable time after it has received the request for the hearing from the parent or eligible student.

(2) The educational agency or institution shall give the parent or eligible student notice of the date, time, and place, reasonably in advance of the hearing.

(3) The hearing may be conducted by any individual, including an official of the educational agency or institution, who does not have a direct interest in the outcome of the hearing.

(4) The educational agency or institution shall give the parent or eligible student a full and fair opportunity to present evidence relevant to the issues raised under OAR 581-021-0310. The parent or eligible student may, at their own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney.

(5) The educational agency or institution shall make its decision in writing within a reasonable period of time after the hearing.

(6) The decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.22

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-

581-021-0330

Prior Consent to Disclose Information

(1) The parent or eligible student shall provide a signed and dated written consent before an educational agency or institution discloses personally identifiable information from the student's education records, except as provided in OAR 581-021-0340.

(2) "Signed and dated written consent" under this part may include a record and signature in electronic form that:

(a) Identifies and authenticates a particular person as the source of the electronic consent; and

(b) Indicates such person's approval of the information contained in the electronic consent.

(3) The written consent must:

(a) Specify the records that may be disclosed;

(b) State the purpose of the disclosure; and

(c) Identify the party or class of parties to whom the disclosure may be made.

(3) When a disclosure is made under section (1) of this rule:

(a) If a parent or eligible student so requests, the educational agency or institution shall provide him or her with a copy of the records disclosed; and

(b) If the parent of a student who is not an eligible student so requests, the agency or institution shall provide the student with a copy of the records disclosed.

(4) If a child is enrolled or is going to enroll in a private school that is not located in the child's resident school district, parent consent must be obtained before any personally identifiable information about the child is released between officials of the school district where the private school is located and the resident school district.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.30, 34 CFR 300.622

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; EB 20-1995, f. & cert. ef. 7-25-95; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0340

Exceptions to Prior Consent

An educational agency or institution may disclose personally identifiable information from an education record of a student without the consent required by OAR 581-021-0330 if the disclosure meets one or more of the following conditions:

(1) The disclosure is to school board members during executive session pursuant to ORS 332.061, or to other school officials and teachers within the educational agency whom the agency or institution has determined to have legitimate educational interests.

(2) The disclosure is to officials of another school, school system, institution of postsecondary education, education service district, state regional program, or other educational agency that has requested the records and in which the student seeks or intends to enroll, or is enrolled in or receives services from the other agency

or institution. The term "receives services" includes, but is not limited to, an evaluation or re-evaluation for purposes of determining whether a student has a disability.

(3) The disclosure is, subject to the requirements of OAR 581-021-0370, to authorized representatives of:

(a) The Comptroller General of the United States;

(b) The Secretary of the U.S. Department of Education;

(c) State and local educational authorities; or

(d) The Oregon Secretary of State's Audit Division.

(4) The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to:

(a) Determine eligibility for the aid;

(b) Determine the amount of the aid;

(c) Determine the conditions for the aid; or

(d) Enforce the terms and conditions of the aid;

(e) As used in this section, "financial aid" means a payment of funds provided to an individual (or a payment in kind of tangible or intangible property to the individual) that is conditioned on the individual's attendance at an education agency or institution.

(5)(a) The disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions to:

(A) Develop, validate, or administer predictive tests;

(B) Administer student aid programs; or

(C) Improve instruction.

(b) The agency or institution may disclose information under this section only if:

(A) The study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization; and

(B) The information is destroyed when no longer needed for the purposes for which the study was conducted.

(c) For the purposes of this section, the term "organization" includes, but is not limited to, federal, state and local agencies, and independent organizations.

(6) The disclosure is to accrediting organizations to carry out their accrediting functions.

(7) The disclosure is to parents of a dependent student, as defined in Section 152 of the Internal Revenue Code of 1986.

(8) The disclosure is to comply with a judicial order or lawfully issued subpoena subject to the requirements of OAR 581-021-0371.

(9) The disclosure is related to a legal action subject to the conditions of OAR 581-021-0372.

(10) The disclosure is in connection with a health or safety emergency, under the conditions described in OAR 581-021-0380.

(11) The disclosure is information the educational agency or institution has designated as "directory information," under the conditions described in OAR 581-021-0390.

(12) The disclosure is to the parent of a student who is not an eligible student or to an eligible student.

(13) The disclosure is to a court and state and local juvenile justice agencies including, but not limited to, law enforcement agencies, juvenile departments and child protective service agencies subject to conditions described in OAR 581-021-0391.

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

Stat. Auth.: ORS 326.565, 336.187, 34 CFR § 99.31 336.187

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; EB 20-1995, f. & cert. ef. 7-25-95; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0350

Limitations on the Redisclosure of Information

(1) An educational agency or institution may disclose personally identifiable information from an education record only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior consent of the parent or eligible student. The officers, employees, and agents of a party that receives information under this section may use the information, but only for the purposes for which the disclosure was made.

(2) Section (1) of this rule does not prevent an educational agency or institution from disclosing personally identifiable information with the understanding that the party receiving the information may make further disclosures of the information on behalf of the educational agency or institution if:

(a) The disclosures meets the requirements of OAR 581-021-0340; and

(b) The educational agency or institution has complied with the requirements in OAR 581-021-0400(2).

(3) Section (1) of this rule does not apply to the following:

(a) Disclosures to parents of a dependent student under OAR 581-021-0340(7) or to an eligible student;

(b) Disclosures pursuant to court orders, lawfully issued subpoenas, or legal action under OAR 581-021-0340(8) or (9);

(c) Disclosures of directory information under OAR 581-021-0340(11).

(4) When applicable, an educational agency or institution shall inform a party to whom disclosure is made of the requirements of this rule.

(5) If the Family Policy Compliance Office determines that a third party improperly rediscloses personally identifiable information from education records in violation of paragraph 1, the educational agency or institution may not allow that third party access to personally identifiable information from education records for at least five years.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.33

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0360

Conditions for the Disclosure of Information to Other Educational Agencies or Institutions

(1) An educational agency or institution that discloses an education record under OAR 581-021-0340(2) to officials of another school or school system where the student seeks or intends to enroll shall:

(a) Annually notify parents or eligible students that it forwards education records requested under OAR 581-021-0250(1)(m) and (p) within 10 days of receiving the request;

(b) Make a reasonable attempt to notify the parent or eligible student at the last known address of the parent or eligible student, unless:

(A) The disclosure is initiated by the parent or eligible student; or

(B) The annual notification of the agency or institution under §99.6 includes a notice that the agency or institution forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll;

(b) Give the parent or eligible student, upon request, a copy of the record that was disclosed; and

(c) Give the parent or eligible student, upon request, an opportunity for a hearing.

(2) An educational agency or institution may disclose an education record of a student in attendance to another educational agency or institution if:

(a) The student is enrolled in or receives services from the other agency or institution; and

(b) The disclosure meets the requirements of section (1) of this rule.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.34

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; EB 20-1995, f. & cert. ef. 7-25-95; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0370

Conditions for the Disclosure of Information for Federal or State Program Purposes

(1) The officials listed in OAR 581-021-0340(3) shall have access to education records in connection with an audit or evaluation of federal or state supported education programs, or for the enforcement of or compliance with federal or state legal requirements which relate to those programs.

(2) Information that is collected under section (1) of this rule must:

(a) Be protected in a manner that does not permit personal identification of individuals by anyone except the officials referred to in section (1) of this rule; and

(b) Be destroyed when no longer needed for the purposes listed in section (1) of this rule.

(3) Section (2) of this rule does not apply if:

(a) The parent or eligible student has given written consent for the disclosure under OAR 581-021-0330; or

(b) The collection of personally identifiable information is specifically authorized by state or federal law.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.35

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94

581-021-0371

Conditions for Disclosure of Information to Comply with Judicial Order or Subpoena

The educational agency or institution may disclose information under this section only if the agency or institution makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance, so that the parent or eligible student may seek protective action except as provided below.

(1) Conditions when no notice required:

(2) The educational agency or institution may disclose information under this section without notice to the parent or eligible student if the disclosure is in compliance with:

(a) A federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or

(b) Any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.31

Stats. Implemented: ORS 326.56

Hist.: ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0372

Conditions for the Disclosure of Information When Legal Action Initiated

(1) If an educational agency or institution initiates legal action against a parent or student, the educational agency or institution may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the educational agency or institution to proceed with the legal action as plaintiff.

(2) If a parent or eligible student initiates legal action against an educational agency or institution, the educational agency or the institution may disclose to the court, without a court order or subpoena, the student's education records that are relevant for the educational agency or institution to defend itself.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.31

Stats. Implemented: ORS 326.56

Hist.: ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0380

Conditions for the Disclosure of Information in Health and Safety Emergencies

(1) An educational agency or institution shall disclose personally identifiable information from an education record to law enforcement, child protective services, and health care professionals, and other appropriate parties in connection with a health and safety emergency if knowledge of the information is necessary to protect the health and safety of the student or other individuals.

(2) Nothing in this Act or this part shall prevent an educational agency or institution from:

(a) Including in the education records of a student appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community;

(b) Disclosing appropriate information maintained under paragraph (2)(a) of this section to teachers and school officials in other schools who have been determined to have legitimate educational interests in the behavior of the student.

(3) Paragraphs (1) and (2) of this section will be strictly construed.

(4) As used in this rule, a “health or safety emergency” includes, but is not limited to, law enforcement efforts to locate a child who may be a victim of kidnap, abduction, or custodial interference and law enforcement or child protective services efforts to respond to a report of child abuse or neglect pursuant to ORS 418.750 to 418.760.

(3) Sections (1) and (4) of this rule shall be strictly construed.
Stat. Auth.: ORS 326.565, 336.187 & 34 CFR § 99.36
Stats. Implemented: ORS 336.187 & 326.565
Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0390

Conditions for the Disclosure of Directory Information

(1) An educational agency or institution may disclose directory information if it has given annual public notice to parents of students in attendance and eligible students in attendance at the educational agency or institution of:

(a) The types of personally identifiable information that the educational agency or institution has designated as directory information;

(b) A parent or eligible student’s right to refuse to let the educational agency or institution designate any or all of those types of information about the student as directory information; and

(c) The period of time within which a parent or eligible student has to notify the educational agency or institution in writing that he or she does not want any or all of those types of information about the student designated as directory information.

(2) An educational agency or institution may disclose directory information about former students without meeting the conditions in section (1) of this rule.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.37
Stats. Implemented: ORS 326.565
Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; EB 20-1995, f. & cert. ef. 7-25-95

581-021-0391

Conditions for the Disclosure of Information to Juvenile Justice Agencies

An educational agency or institution may disclose personally identifiable information to a court and state and local juvenile justice agencies including, but not limited to, law enforcement agencies, juvenile departments and child protective service agencies provided that:

(1) Disclosure relates to the court’s or juvenile justice agency’s ability to serve the needs of a student prior to the student’s adjudication under ORS chapter 419C.

(2) A person to whom personally identifiable information is disclosed under this paragraph shall certify, in writing, that the person will not disclose the information to a third party other than another court or juvenile justice agency or a person or organization providing direct services to the student on behalf of a juvenile justice agency.

Stat. Auth.: ORS 326.565, 336.187 & 34 CFR § 99.
Stats. Implemented: ORS 326.56
Hist.: ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0400

Recordkeeping Requirements

(1) An educational agency or institution shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student:

(a) The agency or institution shall maintain the record with the education records of the student as long as the records are maintained;

(b) For each request or disclosure the record must include:

(A) The parties who have requested or received personally identifiable information from the education records;

(B) The date access was given; and

(C) The legitimate interests the parties had in requesting or obtaining the information.

(2) If an educational agency or institution discloses personally identifiable information from an education record with the understanding authorized under OAR 581-021-0350(2), the record of disclosure required under this section must include:

(a) The names of the additional parties to which the receiving party may disclose the information on behalf of the educational agency or institution; and

(b) The legitimate interests under OAR 581-021-0340 which each of the additional parties has in requesting or obtaining the information.

(3) The following parties may inspect the record relating to each student:

(a) The parent or eligible student;

(b) The school official or his or her assistants who are responsible for the custody of the records;

(c) Those parties authorized in OAR 581-021-0340(1) and (3) for the purposes of auditing the recordkeeping procedures of the educational agency or institution.

(4) Section (1) of this rule does not apply if the request was from or the disclosure was to:

(a) The parent or eligible student;

(b) A school official under OAR 581-021-0340(1);

(c) A party with written consent from the parent or eligible student; or

(d) A party seeking directory information.

(e) A party seeking or receiving the records as directed by a Federal grand jury or other law enforcement subpoena and the issuing court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.32, 34 CFR 300.614
Stats. Implemented: ORS 326.565
Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0410

Filing a Federal Complaint

(1) A person may file a written complaint with the Family Policy Compliance Office, U.S. Department of Education, regarding an alleged violation under the Family Educational Rights and Privacy Act. The office’s address is: Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Ave. SW, Washington, D.C. 20202-5920.

(2) A timely complaint under section (1) of this rule is defined as an allegation of a violation of the Family Educational Rights and Privacy Act that is submitted to the Family Policy Compliance Office within 180 days of the date of the alleged violation or of the date that the complainant knew or reasonable should have know of the alleged violation.

(3) The Family Policy Compliance Office extends the time limit in section (2) of this rule if the complainant shows that he or she was prevented by circumstances beyond the complainant’s control from submitting the matter within the time limit, or for other reasons considered sufficient by the Family Policy Compliance Office.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.63 & 99.64
Stats. Implemented: ORS 326.565
Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0420

Civil Action

Any person claiming to be aggrieved by the reckless disclosure of personally identifiable information from a student’s education records, as prohibited by OAR 581-021-0220 through 581-021-0440, may file a civil action in circuit court pursuant to ORS 30.864.

Stat. Auth.: ORS 30.864 & 326.565

Stats. Implemented: ORS 326.565
Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94

581-021-0430

The Distribution of Rules Relating to Student Records

(1) The State Board of Education shall distribute the administrative rules regarding student education records to all school districts.

(2) School districts shall make those rules available to the public schools in the district and to the public.

Stat. Auth.: ORS 326.565

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94

581-021-0500

Fingerprinting of Subject Individuals in Positions Not Requiring Licensure as Teachers, Administrators, Personnel Specialists, School Nurses

(1) Definitions of terms shall be as follows:

(a) "Applicant" means a subject individual for whom fingerprint cards and other required information have been submitted to the Oregon Department of Education for a criminal history check and review;

(b) "Direct, unsupervised contact with students" means contact with students that provides the person opportunity and probability for personal communication or touch when not under direct supervision;

(c) "Fee" means the total charges assessed the local school district's State School Fund by the Department of Education for processing each fingerprint card submitted. The fee amount and distribution shall be as follows:

(A) Oregon State Police (OSP) — \$28;

(B) Federal Bureau of Investigation (FBI) — \$16.50;

(C) Oregon Department of Education — \$14.50;

(D) TOTAL — \$59.

(d) "Information to be required" means all information requested by the Oregon Department of Education for processing the fingerprint application, including the following:

(A) One properly completed FBI fingerprint cards #USGPO 1990-262-201-2000; and

(B) A properly completed Department of Education form #581-2283-M.

(e) For purposes of criminal background checks pursuant to ORS 326.603 and 326.607, conducted in relation to individuals subject to such criminal background verification, the following definitions of "conviction" of a crime applies:

(A) Any adjudication in any criminal court of law, in this state or in any other jurisdiction, finding the individual committed a crime. A crime is an offense for which a sentence of imprisonment is authorized.

(B) Any adjudication in a juvenile proceeding, in this state or in any other jurisdiction, determining that the individual committed an offense, which if done by an adult, would constitute a crime listed in ORS 342.143.

(C) Any conduct which resulted in mandatory registration reporting as a sex offender in this state or any other jurisdiction. A later court order or other action relieving the individual of the sex offender registration/reporting requirement does not affect the status of the conduct as a conviction for purposes of this rule.

(D) Any plea of guilty, no contest or nolo contendere in connection with a crime, in this state or in any other jurisdiction.

(E) A conviction exists for purposes of this rule, regardless of whether a dismissal was later entered into the record in connection with a diversion or on any sort of deferred adjudication or delayed entry of judgment.

(F) A conviction exists for purposes of this rule even if a crime was expunged or removed from the record of the individual under the laws of another jurisdiction if the crime would be ineligible under ORS 137.225 for expunction or removal from the record if the conviction had occurred in Oregon. A conviction does

not exist where an Oregon court has expunged or otherwise removed a conviction from the record of an individual.

(G) A conviction does not exist, except as noted above, only where there was a judicial adjudication that the individual did not commit the offense in question, or when a conviction, adjudication or plea is overturned by an appellate court of record and no later conviction, adjudication or plea indicating the individual committed the offense in question is on the record.

(f) "Knowingly made a false statement" means that a subject individual has failed to disclose on the Department of Education form #581-2283-M as part of the criminal background check process any of the following:

(A) A felony;

(B) Any misdemeanor conviction less than twenty years from date of conviction;

(C) Any misdemeanor that is listed in ORS 342.143 or its substantial equivalent in another jurisdiction.

(g) "Newly hired" means a person employed for three months or less after application or request for a position.

(h) "School district" means:

(A) A taxing district providing public elementary or secondary education, or any combination thereof, within the state;

(B) An education service district;

(C) The Oregon School for the Deaf;

(D) An educational program under the Youth Corrections Education Program; and

(E) A public charter school.

(i) "Subject individual" means:

(A) Any person newly hired by a school district and not requiring licensure under ORS 342.223;

(B) Any person employed as or by a contractor into a position having direct, unsupervised contact with students and not requiring licensure under ORS 342.223;

(C) Subject individual excludes a newly hired employee so long as the school district has on file evidence that the newly hired employee previously successfully completed Oregon and FBI criminal records check for a previous employer that was a school district and the employer has additional evidence that the employee has not resided outside the state between the two periods of employment;

(D) A person who is a community college faculty member providing instruction:

(i) At the site of an early childhood education program or at a school site as part of an early childhood program; or

(ii) At a kindergarten through grade 12 school site during the regular school day; and

(E) A person who is an employee of a public charter school and not requiring licensure under ORS 342.223.

(2) School districts shall adopt and implement local board policy related to fingerprint collection and processing which shall:

(a) Specify that subject individuals as defined by this rule are subject to fingerprinting and criminal record checks required by law;

(b) Specify which contractors will be considered to have unsupervised access to children and are subject to fingerprinting and criminal records checks required by law;

(c) Specify the format used to notify subject individuals that fingerprinting and criminal record checks are required by law and that any action resulting from those checks may be appealed as a contested case;

(d) Provide a clear statement that the district will terminate the employee, if it receives notification by the Superintendent of Public Instruction that the person has been convicted, of the crimes prohibiting employment that are listed in section (9) of this rule;

(e) Provide a clear statement that the district may terminate the employee, if it receives notification by the Superintendent of Public Instruction that the person has knowingly made a false statement as to the conviction of any crime;

(f) Specify that subject individuals may begin to carry out terms of a contract or employment on a probationary basis pending the return of criminal record checks by the FBI;

(g) Identify that employment shall be offered prior to collecting fingerprint cards for submission to the Department of Education and that fees may be collected from the applicant. The applicant may request that the amount of the fee be withheld from the amount otherwise due the individual, and the school district shall withhold the amount only upon the request of the subject individual; and

(h) Identify a procedure that ensures the integrity of fingerprint collection and will prevent any possible compromise of the process.

(3) Fingerprints may be collected by one of the following:

- (a) Employing school district staff;
- (b) Contracted agent of employing school district;
- (c) Local or state law enforcement agency.

(4) School districts shall send to the Department of Education for purposes of a criminal records check any information, including fingerprints for each subject individual defined in this rule immediately following offer and acceptance of employment or contract.

(5) The Department of Education shall request criminal information from the Department of State Police in the manner prescribed by law and may charge the school district a fee not to exceed the actual cost of acquiring and furnishing the information.

(6) The Oregon Department of Education shall review the criminal records of subject individual upon the district's submission of the required FBI and state forms and the State Superintendent of Public Instruction or designee shall issue a statement of criminal history status and related impact on employment or contract qualification. The Superintendent of Public Instruction or designee shall also notify the school district if the subject individual has knowingly made a false statement as to conviction of a crime.

(7) The Oregon Department of Education shall not provide copies of criminal records to anyone except as provided by law. The subject individual may inspect his or her personal criminal records under the supervision of properly certified LEDS (Law Enforcement Data Systems) personnel at the Department of Education.

(8) Subject individuals who refuse to consent to the criminal records check or refuse to be fingerprinted shall be terminated from employment or contract status by the district.

(9) Subject individuals who have been convicted of any of the crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number, shall be refused continued employment or have employment terminated upon notification from the Superintendent of Public Instruction.

(10) Subject individuals who have been convicted of any of the crimes listed in ORS 161.405 or an attempt to commit any of the crimes listed in section (9) of this rule shall be refused continued employment or have employment terminated upon notification from the Superintendent of Public Instruction.

(11) A school district may terminate the employment of any subject individuals who knowingly makes a false statement as to the conviction of a crime upon notification of the false statement by the Superintendent of Public Instruction.

(12) Evaluations of crimes shall be based on Oregon laws in effect at the time of conviction, regardless of the jurisdiction in which the conviction occurred.

(13) Prior to making a determination that results in a notice and opportunity for hearing, the Superintendent of Public Instruction may cause an investigation to be undertaken. Subject individuals and districts shall cooperate with the investigation and may be required to furnish oral or written statements by affidavit or under oath. If the Superintendent of Public Instruction determines through investigation that a violation of this rule has not occurred, a written decision explaining the basis for the decision will be provided to the subject individual.

(14) Applicants may appeal a determination that prevents their employment or eligibility to contract with a school district as a contested case under ORS 183.413 to 183.470 to the Oregon Superintendent of Public Instruction.

(15) Only cards and forms approved by the Department of Education will be accepted. The Department of Education will return any incomplete or incorrectly completed fingerprint cards and associated forms without taking any other action.

(16) The Department of Education shall maintain a record of all properly submitted fingerprint cards. The record shall include at least the following:

- (a) Card sequence number;
- (b) District submitting the cards;
- (c) Date cards and Department form received;
- (d) Date completed card sent to Oregon State Police;
- (e) Date denial or probationary approval sent to district;
- (f) Date FBI card returned to Department; and
- (g) Date denial or final approval sent to district.

Stat. Auth.: ORS 326.603

Stats. Implemented: ORS 326.603

Hist.: ODE 25-2008, f. & cert. ef. 9-26-08; ODE 12-2009, f. & cert. ef. 12-10-09; ODE 18-2009, f. & cert. ef. 12-10-09; ODE 2-2012, f. 2-1-12, cert. ef. 2-3-12; ODE 25-2012(Temp), f. 9-13-12, cert. ef. 9-17-12 thru 3-15-13; ODE 5-2013, f. & cert. ef. 1-17-13; ODE 8-2014, f. & cert. ef. 2-19-14; ODE 8-2015, f. & cert. ef. 4-15-15

581-021-0505

Radio Frequency Identification Device Policy for Student

Any school district that plans to use a Radio Frequency Identification Device (RFID) for the purpose of locating or tracking a student or taking student attendance shall adopt a policy regarding the use of RFID. The policy shall incorporate the standards outlined in this rule.

(1) Privacy and security standards:

(a") No personally identifiable information may be stored on the RFID;

(b) The RFID may not have a readable range of more than 10 feet;

(c) All data collected as part of a RFID program shall be considered part of the student record and shall be retained in accordance with state and federal student record laws and data privacy and security standards;

(d) Data collected as part of a RFID program shall be retained for no more than 72 hours, except records for the purpose of taking attendance; and

(e) RFID reader locations must be conspicuously marked.

(2) Notification to parents and students:

(a) Districts that are beginning a RFID program shall provide notice to parents and students at least 30 days before the district implements use of the RFID program. The notification shall:

(A) Specify the purpose for the RFID program;

(B) Specify where the RFID readers will be located;

(C) Outline the expectations of participation in the program including any possible disciplinary actions for not following the RFID program rules;

(D) Inform parents and students of the right to not participate in the RFID program and how to opt out;

(E) Outline the procedure to not participate in the RFID program; and

(F) Be communicated in at least two formats, one of which shall be the school district website, if available.

(b) Districts that have established RFID programs shall provide a notice to parents and students annually at least 30 days prior to the first day of classes. The notification shall meet the requirements outlined in paragraph (a) of this subsection.

(c) If the district expands the use of RFID beyond the purpose specified in the notification requirement of paragraphs (a) or (b) of this subsection, the district shall provide notice to parents and students at least 30 days prior to the start of the new use of the RFID. The notification shall meet the requirements outlined in paragraph (a) of this subsection.

(3) Notwithstanding subsection (3) of this rule, districts may create RFID programs without notification if the district creates a form allowing parents to voluntarily opt-in to a RFID program.

(a) The form created under this section shall:

(A) Require a parent signature or signature of a student if the student is 14 years of age or older for consent to join the RFID program;

(B) Specify the purpose for the RFID program;

(C) Specify where the RFID readers will be located;

(D) Outline the expectations of participation in the program including any possible disciplinary actions for not following the RFID program rules;

(E) Outline the procedures to discontinue participation in the RFID program; and

(F) Expire one year from the date that the form is signed by the parent.

(b) RFID programs administered under this section shall not require any student to use RFID who does not have a consent form on file.

(c) Districts wishing to expand the RFID program to students without a valid consent form on file must provide 30 day notification as outlined in section (3) of this rule.

(4) Parents or students who are 14 years of age or older may provide notice in writing that they no longer wish to participate in a RFID program as outlined in section (3) or (4) of this rule. The district shall:

(a) Not ask for the reason or justification for the request;

(b) Not impose a time restriction for a request to be made;

(c) Ensure that the request is completed within three school days; and

(d) Not initiate or continue any disciplinary action against the student for not following the RFID program rules.

(5) As used in this rule:

(a) "Personally identifiable information" means data that could potentially identify a specific individual.

(b) "RFID" means a Radio Frequency Identification Device.

Stat. Auth.: ORS 339.890

Stat. Implemented: ORS 339.890

Hist.: ODE 24-2016, f. & cert. ef. 4-7-16

581-021-0550

Definitions

As used in OAR 581-021-0550 to 581-021-0570:

(1) 'Chemical restraint' means a drug or medication that is used on a student to control behavior or restrict freedom of movement and that is not:

(a) Prescribed by a licensed physician or other qualified health professional acting under the professional's scope of practice for standard treatment of the student's medical or psychiatric condition;

(b) Administered as prescribed by a licensed physician or other qualified health professional acting under the professional's scope of practice.

(2) 'Mechanical restraint' means a device used to restrict the movement of a student or the movement or normal function of a portion of the body of a student. 'Mechanical restraint' does not include:

(a) A protective or stabilizing device ordered by a licensed physician; or

(b) A vehicle safety restraint when used as intended during the transport of a student in a moving vehicle.

(3) 'Physical restraint' means the restriction of a student's movement by one or more persons holding the student or applying physical pressure upon the student.

(a) Physical restraint' does not include the touching or holding of a student without the use of force for the purpose of directing the student or assisting the student in completing a task or activity;

(b) 'Physical restraint does not include prone restraint as defined in ORS 339.288.

(4) 'Prone restraint' means a restraint in which a student is held face down on the floor.

(5) 'Public education program' means a program that:

(a) Is for students in early childhood education, elementary school or secondary school;

(b) Is under the jurisdiction of a school district, an education service district or another educational institution or program; and

(c) Receives, or serves students who receive, support in any form from any program supported, directly or indirectly, with funds appropriated to the Department of Education.

(6) 'Seclusion' means the involuntary confinement of a student alone in a room from which the student is physically prevented from leaving. 'Seclusion' does not include the removal of a student for a short period of time to provide the student with an opportunity to regain self-control if the student is in a setting from which the student is not physically prevented from leaving.

(7) 'Seclusion cell' means a freestanding, self-contained unit that is used to:

(a) Isolate the student from other students; or

(b) Physically prevent a student from leaving the unit or cause the student to believe that the student is physically prevented from leaving the unit.

(8) 'Serious bodily injury' means any significant impairment of the physical condition of a person, as determined by qualified medical personnel, whether self-inflicted or inflicted by someone else.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 339.285 - 339.303

Hist.: ODE 12-2012, f. 3-30-12, cert. ef. 5-1-12; ODE 13-2014, f. & cert. ef. 2-19-14; ODE 15-2014, f. & cert. ef. 3-4-14

581-021-0553

Use of Physical Restraint and Seclusion in Public Education Programs

(1) The use of a chemical restraint, mechanical restraint or prone restraint on a student in a public education program in this state is prohibited.

(2) The use of physical restraint or seclusion on a student in a public education program in this state is prohibited unless used as provided in ORS 339.291, which includes the following:

(a) Physical restraint or seclusion may be used on a student in a public education program only if:

(A) The student's behavior imposes a reasonable threat of imminent, serious bodily injury to the student or others; and

(B) Less restrictive interventions would not be effective.

(b) Physical restraint or seclusion may not be used for discipline, punishment or convenience of personnel of the public education program.

(c) If physical restraint or seclusion is used on a student, the physical restraint or seclusion must be:

(A) Used only for as long as the student's behavior poses a reasonable threat of imminent, serious bodily injury to the student or others;

(B) Imposed by personnel of the public education program who are:

(i) Trained to use physical restraint or seclusion through programs approved by the Department of Education under OAR 581-021-0563; or

(ii) Otherwise available in the case of an emergency circumstance when trained personnel are not immediately available due to the unforeseeable nature of the emergency circumstance.

(C) Continuously monitored by personnel of the public education program for the duration of the physical restraint or seclusion.

(3) If physical restraint or seclusion continues for more than 30 minutes:

(a) The student must be provided with adequate access to the bathroom and water every 30 minutes;

(b) Personnel of the public education program must immediately attempt to verbally or electronically notify a parent or guardian of the student; and,

(c) Every 15 minutes after the first 30 minutes of the physical restraint or seclusion, an administrator for the public education program must provide written authorization for the continuation of the physical restraint or seclusion, including providing documentation for the reason the physical restraint or seclusion must be continued.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 339.285 - 339.303

Hist.: ODE 12-2012, f. 3-30-12, cert. ef. 5-1-12; ODE 13-2014, f. & cert. ef. 2-19-14; ODE 15-2014, f. & cert. ef. 3-4-14

581-021-0556

Program's Procedures Regarding Physical Restraint and Seclusion

(1) Each entity that has jurisdiction over a public education program must establish procedures for the public education program to follow after an incident involving the use of physical restraint or seclusion.

(2) Following an incident involving the use of physical restraint or seclusion, the following must be provided to a parent or guardian of the student:

(a) Verbal or electronic notification of the incident by the end of the school day when the incident occurred;

(b) Written documentation of the incident within 24 hours of the incident that provides a description of the physical restraint or seclusion including:

(A) The date of the physical restraint or seclusion;

(B) The times when the physical restraint or seclusion began and ended;

(C) The location of the physical restraint or seclusion;

(D) A description of the student's activity that prompted the use of physical restraint or seclusion;

(E) The efforts used to de-escalate the situation and the alternatives to physical restraint or seclusion that were attempted;

(F) The names of the personnel of the public education program who administered the physical restraint or seclusion;

(G) A description of the training status of the personnel of the public education program who administered the physical restraint or seclusion, including any information that may need to be provided to the parent or guardian; and,

(H) Timely notification of a debriefing meeting to be held and of the parent's or guardian's right to attend the meeting.

(3) If the personnel of the public education program who administered the physical restraint or seclusion had not received training from a program approved by the Department of Education, as required and in accordance with OAR 581-021-0563, the administrator of the public education program shall ensure that a parent or guardian of the student and the district superintendent receive written notification of:

(a) The lack of training; and

(b) The reason the physical restraint or seclusion was administered by a person without training.

(4) A debriefing meeting related to the use of physical restraint or seclusion must be held within two school days of the incident and must include all personnel of the public education program who were involved in the incident and any other appropriate personnel. Written notes must be taken of the debriefing meeting, and a copy of the written notes must be provided to a parent or guardian of the student.

(5) If a student is involved in five incidents in a school year involving physical restraint or seclusion, a team consisting of personnel of the public education program and a parent or guardian of the student must be formed for the purposes of reviewing and revising the student's behavior plan and ensuring the provision of any necessary behavioral supports.

(6) If serious bodily injury or death of a student occurs in relation to the use of physical restraint or seclusion, written notification of the incident must be provided by the public education providers within 24 hours of the incident to the Department of Human Services.

(7) If serious bodily injury or death of personnel of the public education program occurs in relation to the use of physical restraint or seclusion, written notification of the incident must be provided within 24 hours of the incident to the district superintendent and, if applicable, to the union representative for the affected party.

(8) Each public education program must maintain a record of each incident in which injuries or death occurs in relation to the use of physical restraint or seclusion.

(9) As indicated, per ORS 161.205 and 339.250, an individual who is a teacher, administrator, school employee or school volunteer may use reasonable physical force upon a student when and to the extent the application of force is consistent with Section

3, chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939) and OAR 581-021-0553.

(10) The district school board shall adopt written policies to implement Physical Restraint & Seclusion procedures consistent with and as indicated in chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939), ORS 339.250 and OARs 581-021-0550 to 581-021-0570, and shall inform teachers, administrators, school employees and school volunteers.

Stat. Auth.: ORS . 326.051

Stats. Implemented: ORS 339.285 - 339.303

Hist.: ODE 12-2012, f. 3-30-12, cert. ef. 5-1-12; ODE 13-2014, f. & cert. ef. 2-19-14; ODE 15-2014, f. & cert. ef. 3-4-14

581-021-0559

Reporting Requirements for the Use of Physical Restraint and Seclusion

(1) Each entity that has jurisdiction over a public education program must prepare and submit to the Superintendent of Public Instruction an annual report detailing the use of physical restraint and seclusion for the preceding school year, including, at a minimum:

(a) The total number of incidents involving physical restraint;

(b) The total number of incidents involving seclusion;

(c) The total number of seclusions in a locked room;

(d) The total number of students placed in physical restraint;

(e) The total number of students placed in seclusion;

(f) The total number of seclusion rooms available; and a description, including the location of those rooms, designated solely for seclusion;

(g) The total number of incidents that resulted in injuries or death to students or personnel as a result of the use of physical restraint or seclusion;

(h) The number of students who were placed in physical restraint or seclusion more than 10 times in the course of a school year and an explanation of what steps have been taken by the public education program to decrease the use of physical restraint and seclusion for each student;

(i) The number of incidents in which the personnel of the public education program administering physical restraint or seclusion were not trained; and

(j) The demographic characteristics of all students upon whom physical restraint or seclusion was imposed, including race, ethnicity, gender, disability status, migrant status, English proficiency, and status as economically disadvantaged, unless the demographic information would reveal personally identifiable information about an individual student.

(2) Each entity that has jurisdiction over a public education program shall make its annual report about physical restraint and seclusion available to:

(a) The public at the entity's main office and the website of the entity;

(b) The school board or governing body overseeing the entity;

(c) If the entity is an education service district, the component school districts of the education service district;

(d) If the entity is a public charter school, the sponsor of the public charter school;

(e) Parents and guardians of students in a public education program, who shall be advised at least once each school year about how to access the report.

Stat. Auth. 326.051

Stats. Implemented: 2011 OL Ch. 665 (Enrolled HB 2939)

Hist.: ODE 12-2012, f. 3-30-12, cert. ef. 5-1-12; ODE 13-2014, f. & cert. ef. 2-19-14; ODE 15-2014, f. & cert. ef. 3-4-14

581-021-0563

Approval of Physical Restraint and Seclusion Training Programs for School Staff

(1) The Department of Education shall approve training programs in physical restraint and seclusion that:

(a) Teach evidence-based techniques that are shown to be effective in the prevention and safe use of physical restraint or seclusion;

(b) Provide evidence-based skills training related to positive behavior support, conflict prevention, de-escalation and crisis response techniques; and

(c) Are consistent with the philosophies, practices and techniques for physical restraint and seclusion that are established by rule or policy of the Department of Human Services.

(2) A training program seeking approval must submit in writing to the Oregon Department of Education that meets the expectations subsection (1) of this rule.

(3) Training programs approved remain in effect unless significant changes are made to the program. If significant changes are made, the training program must be re-submitted for approval.

(4) The ODE must remove training programs from the approved list if they no longer meets the requirements specified in subsection (1) of this rule, or if they are found by the Oregon Department of Education to have violated any other laws.

Stat. Auth.: ORS. 326.051

Stats. Implemented: ORS 339.285 - 339.303

Hist.: ODE 12-2012, f. 3-30-12, cert. ef. 5-1-12; ODE 13-2014, f. & cert. ef. 2-19-14; ODE 15-2014, f. & cert. ef. 3-4-14

581-021-0566

Required Use of Approved Restraint and Seclusion Programs

On or after July 1, 2012, a Public Education Program may only use training programs on physical restraint and seclusion that are approved by the Department of Education under OAR 581-021-0563. The Department of Education shall make the approved training list available to all Public Education Programs.

Stat. Auth.: ORS. 326.051

Stats. Implemented: ORS 339.285 - 339.303

Hist.: ODE 12-2012, f. 3-30-12, cert. ef. 5-1-12; ODE 13-2014, f. & cert. ef. 2-19-14; ODE 15-2014, f. & cert. ef. 3-4-14

581-021-0568

Standards for Seclusion Rooms

(1) Beginning with the 2014–15 school year, public education programs must meet the following standards for the structural and physical requirements for rooms designated by the school to be used for seclusion:

(a) Any wall that is part of the room used for seclusion must be part of the structural integrity of the room (not free standing cells or portable units attached to the existing wall or floor), and must be no less than 64 square feet; the distance between adjacent walls must be no less than 7 feet across.

(b) The room must not be isolated from school staff of the facility;

(c) Doors must be unlocked or equipped with immediate-release locking mechanisms;

(d) The door must open outward and contain a port of shatterproof glass or plastic through which the entire room may be viewed from outside; half doors are acceptable options as well where direct visual monitoring can occur.

(e) The room must contain no protruding, exposed, or sharp objects;

(f) The room must contain no free standing furniture.

(g) Windows must be transparent for both staff and the student to see in/out, and made of unbreakable or shatterproof glass or plastic. Non-shatterproof glass must be protected by adequate climb-proof screening;

(h) There must be no exposed pipes or electrical wiring in the room. Electrical outlets must be permanently capped or covered with a metal shield secured by tamper-proof screws. The room must contain lights which must be recessed or covered with screening, safety glass or unbreakable plastic. Any cover, cap or shield must be secured by tamper-proof screws;

(i) The room must meet State Fire Marshal fire, safety, and health standards. If sprinklers are installed, they must be recessed and/or covered with a cage. If pop-down type, sprinklers must have breakaway strength of less than 80 pounds. In lieu of sprinklers, combined smoke and heat detector must be used with similar protective design or installation;

(j) The room must be ventilated; heating and cooling vents must be secure and out of reach;

(k) The room must be designed and equipped in a manner that would not allow a child to climb up a wall;

(l) Walls, floor and ceiling must be solidly and smoothly constructed, to be cleaned easily, and have no rough or jagged portions; and

(m) Seclusion cells are prohibited as provided in OAR 581-021-0569.

(2) These standards are first applicable on or after July 1, 2014.

Stat. Auth.: 2013 OL Ch. 650, Sec. 2 (Enrolled HB 2585)

Stats. Implemented: ORS 339.285 - 339.303

Hist.: ODE 13-2014, f. & cert. ef. 2-19-14; ODE 15-2014, f. & cert. ef. 3-4-14

581-021-0569

Use of Seclusion Cells Prohibited

(1) A public education program may not:

(a) Purchase, build or otherwise take possession of a seclusion cell; or

(b) Use a seclusion cell.

(2) No later than July 1, 2013, a public education program shall ensure that all seclusion cells are removed from the classrooms of the public education program.

(3) No later than September 1, 2013, a public education program shall ensure that all seclusion cells are removed from the premises of the public education program.

(4) Notwithstanding the applicability date specified in OAR 581-021-0568 the prohibition on the use of seclusion cells under this rule is effective and applicable beginning on or after April 5, 2013.

Stat. Auth.: ORS 339.308

Stats. Implemented: ORS 339.285 - 339.308

Hist.: ODE 13-2014, f. & cert. ef. 2-19-14; ODE 15-2014, f. & cert. ef. 3-4-14

581-021-0570

Complaint Procedures

An organization or an individual may submit to the Superintendent of Public Instruction a written, signed complaint alleging that a public education program is violating or has violated a provision of sections 1 to 6, chapter 665, Oregon Laws 2011 or 581-021-0550 to 581-021-0566.

(1) The complaint must indicate that, prior to submitting the complaint to the superintendent, the organization or individual attempted to seek a remedy for the complaint from the board or governing body overseeing the entity that has jurisdiction over the public education program against which the complaint is being submitted by:

(a) First filing the complaint with the public education entity; and

(b) Attempting to follow any complaint procedures that the entity has adopted including those adopted by school districts pursuant to ORS 327.1030 and OAR 581-022-1941.

(2) The organization or individual filing the complaint and the Superintendent shall follow the appeal procedures specified in OAR 581-022-1940.

Stat. Auth.: ORS 339.303

Stats. Implemented: ORS 339.285 to 339.303

Hist.: ODE 13-2014, f. & cert. ef. 2-19-14; ODE 15-2014, f. & cert. ef. 3-4-14

581-021-0576

Definitions

The following definitions apply to OAR 581-021-0576 to 581-021-0582:

(1) “Community College Service Area” means a district formed under ORS Chapter 341 or, for school districts outside of a community college service area, it means an area determined pursuant to contract with a community college as determined by the office of Community Colleges and Workforce Development (CCWD).

(2) “Full-Time Enrollment” in a community college is the registration and payment of required fees as a full-time student based on a minimum of 12 credit-hours per academic term.

(3) “Legal residence for students” means:

(a) Resident students as defined under ORS 339.133;

(b) A student who has been admitted to a district under open enrollment under section 9, chapter 718, Oregon Laws 2011 retains residency for purposes of the post graduate scholar program even though they have graduated; and

(c) A student who has been admitted to a district under inter-district transfer if the receiving district extends the transfer agreement to allow for an additional year after the student meets the graduation requirements.

(4) "Post-graduate scholar" means a student:

(a) Who has been in grades 9-12 for more than a total of four school years; and

(b) Has satisfied the requirements for a regular high school diploma as provided in ORS 329.451(2).

(5) "Post-graduate scholar program" is a program that meets the requirements in SB1537.

Stat. Auth.: Enrolled SB 1537 (2016)

Stats. Implemented: Enrolled SB 1537 (2016)

Hist.: ODE 39-2016, f. & cert. ef. 7-18-16

581-021-0578

School District Eligibility to Offer a Post Graduate Scholar Program

School Districts are eligible to use state school funds for a post graduate scholar program if the following criteria are met:

(1) School districts must have a written agreement with the community college that has a service area or contract within which the school district is located.

(2) School districts have a policy approved by the school district board that:

(a) Describes the goals of the program, including target high school graduation rates for underserved students;

(b) Includes minimum requirements for grade point average, attendance, and participation in regular in-person meetings with school staff;

(c) Contains an evaluation plan describing how the success of the program will be measured and monitored; and

(d) Lists the courses of study that are approved by the school district for the post-graduate scholar program; and

(3) The majority of students from the school district that are enrolled in courses at the community college meet at least one of the criteria identified below:

(a) Is not a post-graduate scholar;

(b) Has received a modified diploma, an extended diploma or a General Educational Development (GED) certificate;

(c) Is or will be a first-generation graduate of high school;

(d) Is, or has been, a child in a foster home;

(e) Is, or has been, placed in a facility or an education program by a court;

(f) Is homeless;

(g) Is a parent; or

(h) Was identified as eligible for free or reduced price lunches within the preceding 12 months.

Stat. Auth.: Enrolled SB 1537 (2016)

Stats. Implemented: Enrolled SB 1537 (2016)

Hist.: ODE 39-2016, f. & cert. ef. 7-18-16

581-021-0579

Student Eligibility to Participate in a Post Graduate Scholar Program

Students who are eligible to participate in a post graduate scholar programs must:

(1) Have satisfied the requirements for a regular Oregon diploma as provided in ORS 329.451(2);

(2) Have been in grades 9-12 for more than a total of four school years;

(3) Enroll in courses that are part of a course of study approved by the school district and that may lead to a certificate or diploma through the district's local community college or contract community college;

(4) Have completed and submitted the Free Application for Federal Student aid (FAFSA), if eligible to file a FAFSA;

(5) Be ineligible for an Oregon Promise grant as described in ORS 341.522 because of failure to earn the required minimum cumulative grade point average or because they submitted a complete application but did not receive a grant;

(6) Be ineligible for a federal aid grant that is equal or greater than the average cost of tuition and fees at a community college as determined by the Department of Education in consultation with the executive director of the Office of Student and Access and Completion based on prior year's tuition and fees;

(7) Retain legal residence within the boundaries of the school district that is offering the post-graduate scholar program and through which the student satisfied the requirements for a high school diploma; and

(8) Meet any school district requirements for participating in the post graduate scholars program.

Stat. Auth.: Enrolled SB 1537 (2016)

Stats. Implemented: Enrolled SB 1537 (2016)

Hist.: ODE 39-2016, f. & cert. ef. 7-18-16

581-021-0580

Definitions

The following definitions apply to OAR 581-021-0580 to 581-0021-0584:

(1) "Assessment" means any of the measurements identified by the Department of Education and used to determine target language proficiency.

(2) "Biliteracy" means the ability to demonstrate a high level of proficiency in reading, writing, listening, and speaking in English and one or more world languages.

(3) "Oregon State Seal of Biliteracy" means a seal issued by the Superintendent of Public Instruction that certifies a student is biliterate in English and one or more world languages.

(4) "Portfolio of evidence" means the body of work collected to demonstrate a high level of Biliteracy proficiency

(5) "World language" means American Sign Language and languages other than English.

Stat. Auth.: ORS 326.051

Stat. Implemented: ORS 326.051

Hist.: ODE 28-2016, f. & cert. ef. 4-28-16

581-021-0582

Establishment

(1) The State Seal of Biliteracy is established to recognize high school graduates who have attained a high level of proficiency in reading, writing, listening, and speaking in one or more World languages in addition to English. The State Seal of Biliteracy shall be awarded by the Superintendent of Public Instruction. School district participation in this program is voluntary.

(2) The purposes of the State Seal of Biliteracy are as follows:

(a) To encourage students to study languages.

(b) To certify attainment of biliteracy.

(c) To provide employers with a method of identifying people with language and biliteracy skills.

(d) To provide post-secondary institutions with a method to recognize and give academic credit to applicants seeking admission.

(e) To prepare students to be college and career ready.

(f) To recognize and promote world language instruction in public schools.

(g) To strengthen intergroup relationships, affirm the value of diversity, and honor the multiple cultures and languages of a community.

Stat. Auth.: ORS 326.051

Stat. Implemented: ORS 326.051

Hist.: ODE 28-2016, f. & cert. ef. 4-28-16

581-021-0584

Oregon State Seal of Biliteracy

(1) The Department of Education shall develop a process by which school districts shall submit to the Department information on each student who is a candidate for a State Seal of Biliteracy.

(2) The Superintendent of Public Instruction shall award a State Seal of Biliteracy to a student who meets all of the following criteria:

- (a) Completed all state and district graduation requirements;
- (b) Met the Essential Skills for reading and writing in English;
- (c) Demonstrated proficiency in one or more world languages other than English in reading, writing listening and speaking through:

(A) One or more examinations and passing scores for each that are identified by the Department of Education; or

(B) Work sample, body of evidence or portfolio.

Stat. Auth.: ORS 326.051

Stat. Implemented: ORS 326.051

Hist.: ODE 28-2016, f. & cert. ef. 4-28-16

DIVISION 22

STANDARDS FOR PUBLIC ELEMENTARY AND SECONDARY SCHOOLS

581-022-0102

Definitions

The following definitions apply to Oregon Administrative Rules 581-022-0102 through 581-022-1940, unless otherwise indicated by context:

(1) “Assessment”: Systematic gathering of data with the purpose of appraising and evaluating children’s social, physical, emotional, and intellectual development. Activities may include testing to obtain and organize information on student performance in specific subject areas.

(2) Career and Technical Education: A sequence of organized educational activities that:

(a) Provides individuals with coherent and rigorous content aligned with challenging academic standards and relevant technical knowledge and skills needed to prepare for further education and careers;

(b) Provides technical skill proficiency and may provide an industry-recognized credential, a certificate or an advanced degree; and

(c) Includes applied learning that contributes to an individual’s academic and technical knowledge, higher-order reasoning and problem-solving skills, work attitudes and general employability skills.

(3) “Career Development”: The exploration of personal interests and abilities with regard to career selection, and the development of tentative career goals.

(4) “Career Education”: A process for improving educational programs to enhance student understanding of and preparation for work and continuing career development.

(5) “Career-Related Learning Experiences”: Structured student activities in the community, the workplace, or in school that connect academic content and career-related learning to real life applications. These experiences extend, reinforce and support classroom learning. They include, but are not limited to:

- (a) Workplace mentoring;
- (b) Workplace simulations;
- (c) School-based enterprises;
- (d) Structured work experiences;
- (e) Cooperative work and study programs;
- (f) On-the-job training;
- (g) Apprenticeship programs;
- (h) Service learning; and
- (i) Field-based investigations.

(6) “Charter school”: A public charter school as defined in ORS 338.005.

(7) “Child development specialist program”: An optional elementary grades K-8 or any configuration thereof component of a district’s comprehensive guidance and counseling program for grades K-12.

(8) “Collection of Evidence”: The work of a student collected and evaluated together to measure the student’s ability to apply

what the student knows and can do in relation to a set of standards or criteria.

(9) “Common Curriculum Goals”: The knowledge and skills expected of all students as a result of their educational experience; defined by the state as:

(a) The Essential Learning Skills which means essential skills as defined by this rule; and

(b) The Common Knowledge and Skills in instructional programs as adopted by the State Board of Education.

(10) “Common Knowledge and Skills in Instructional Programs”: Facts, concepts, principles, rules, procedures and methods of inquiry associated with specific subject matter areas as adopted by the State Board of Education.

(11) “Common School District”: A school district other than a union high school district formed primarily to provide education in all or part of grades K through 12 to pupils residing within the district (ORS 330.005(2)(b)). See section (20) of this rule.

(12) “Community Partnerships”: Collaborations to network resources to assist students to meet state and local standards and prepare students for post high school transitions. These partnerships include parents, students, business, education, government and community-based organizations.

(13) “Compliance Indicator”: Statement of the action taken by a local district which can be accepted as evidence that the district is in compliance with the intent of a particular state standard.

(14) “Comprehensive guidance and counseling program: A program that is integral to a district’s total PreK through 12 educational program that is planned, proactive and preventative in design to address each student’s academic, career, personal and social development and community involvement.

(15) “Conditionally Standard School”: A school that fails to meet the standards but has submitted a plan of correction, approved by the district school board, to the State Superintendent.

(16) “Course Goals”: Statements describing the knowledge and skills students are expected to acquire as a result of having completed a course, elementary unit, or grade level.

(17) “Diploma”: The document issued by school districts and charter schools in accordance with OAR 581-022-1130 or 581-022-1134.

(18) “District”: A common or union high school district (ORS 332.002(2)).

(19) “District Goals”: Statements related to State Board of Education goals (OAR 581-022-1030) which describe the local district and community’s expectations for student learning.

(20) “District School Board”: The board of directors of a common school district or a union high school district (ORS 332.002(1)).

(21) “Education Plan”: A formalized plan and process in which a student identifies their academic, personal and career interests which helps the student to connect school activities with their post-high school goals.

(22) “Education Profile”: Documentation of a student’s academic achievement and progress toward their graduation requirements, post-high school goals and other personal accomplishments identified in their education plan.

(23) “Education Record”: has the same meaning as in OAR 581-021-0220.

(24) “Elementary School”: Any combination of grades K through 8.

(25) “Essential Skills”: Process skills that cross academic disciplines and are embedded in the content standards. The skills are not content specific and can be applied in a variety of courses, subjects, and settings. The essential skills include: Read and comprehend a variety of text; Write clearly and accurately; Listen actively and speak clearly and coherently; Apply mathematics in a variety of settings; Think critically and analytically; Use technology to learn, live, and work; Demonstrate civic and community engagement; Demonstrate global literacy; and Demonstrate personal management and teamwork skills.

(26) “Extended Application Standard”: The application and extension of knowledge and skills in new and complex situations

related to the student's personal and career interests and post-high school goals.

(27) "Global Studies": An area of study for learning about the people and cultures of the world through history, geography and other social studies disciplines.

(28) "High School": Any combination of grades 10 through 12 in districts providing a junior high school containing grade 9; any combination of grades 9 through 12 organized as a separate unit; grades 9 through 12 housed with grades K through 12; grades 7 or 8 through 12, if approved by the Oregon Department of Education.

(29) "Identification Team" referred to as the "Team": A team of at least two district staff who carry out district identification procedures and determine the identification of students under OAR 581-022-1310.

(30)(a) "Instructional time" means time during which students are engaged in regularly scheduled instruction, learning activities, or learning assessments that are designed to meet Common Curriculum Goals and academic content standards required by OAR 581-022-1210, and are working under the direction and supervision of a licensed or registered teacher, licensed CTE instructor, licensed practitioner, or Educational Assistant who is assigned instructionally related activities and is working under the supervision of a licensed or registered teacher as required by OAR 581-037-0015.

(b) Instructional time shall include:

(A) Time that a student spends traveling between the student's school and a CTE center, internship, work experience site, or post-secondary education facility;

(B) Time that a student spends in statewide performance assessments; and

(C) Up to fifteen minutes each day of the time that a student spends consuming breakfast in the classroom if instruction is being provided while the student is consuming breakfast.

(c) Instructional time shall not include time that a student spends passing between classes, at recess, in non-academic assemblies, on non-academic fieldtrips, participating in optional school programs, or in study periods or advisory periods where attendance is not required and no instructional assistance is provided.

(31) "Junior High School": A secondary school composed of one or more of grades 7, 8, and 9 organized separately from other grades and approved by the Oregon Department of Education.

(32) "Kindergarten": A planned program that provides activities designed to foster the physical, social, emotional, and cognitive development of young children (ORS 336.092 and 336.095).

(33) "Middle School": An organizational unit composed of any combination of grades 5, 6, 7, and 8 organized separately from other elementary grades and identified as a middle school with the Oregon Department of Education.

(34) "Next steps": The education and/or career choices students make after leaving high school, which may include the workforce, community colleges, four-year colleges and universities, private career schools, apprenticeships, and the military.

(35) "Nonstandard School": A school which fails to meet the standards, and which within ninety days of the State Superintendent's notification of deficiencies, fails to submit a plan of correction or adhere to a plan of correction approved by the State Superintendent (ORS 327.103).

(36) "Parent": Has the same definition as in Oregon Revised Statute 343.035.

(37) "Planned Course Statement": Course title, course overview, course goals (including essential learning skills, career-related goals and common curriculum goals as set forth in OARs 581-022-1210) and, where appropriate, graduation competence assigned to the course for verification.

(38) "Potential": As used in OAR 581-022-1310, the demonstrated capacity to perform at or above the 97th percentile as determined by the team.

(39) "Program": A planned series of interrelated activities or services contributing to the attainment of a goal or set of goals.

(40) "Program Evaluation": A process for making judgments about the philosophy, goals, methods, materials and outcomes of a program to guide program improvement.

(41) "Program Goals" (instructional): Statements describing what students are expected to learn in each district instructional program in any combination of grades K through 12.

(42) "Program Goals" (support): Statements describing program outcomes which support the entire learning system, or one or more of its components, usually stated in terms of services to be performed.

(43) "Program Needs Identification": Procedures, which specify and rank the differences between actual and desired outcomes leading to the consideration of program revision.

(44) "School District": A common or union high school district (ORS 332.002). For the purposes of OARs 581-022-0403, 581-022-1310, 581-022-1320 and 581-022 1330, school district has the same meaning as in Oregon Revised Statute 343.395.

(45) "Standard School": A school, which is in compliance with all of the standards.

(46) "State Standards": State Board division 22 Administrative Rules for public elementary and secondary schools.

(47) "Student Activity Funds": All money raised or collected by and/or for school-approved student groups, excluding money budgeted in the general fund.

(48) "Talented and Gifted Students": Those children defined in Oregon Revised Statute 343.395.

(49) "Union High School District": A school district, other than a common school district, formed in accordance with ORS 335.210 to 335.485 (330.005).

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

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.011

Hist.: 1EB 19-1980, f. 6-17-80, ef. 7-1-80; 1EB 4-1986, f. 1-23-86, ef. 2-1-86; EB 8-1989, f. & cert. ef. 1-27-89; EB 6-1995, f. & cert. ef. 1-24-95; ODE 7-1999, f. & cert. ef. 1-15-99; ODE 12-2002, f. & cert. ef. 4-15-02; ODE 4-2003, f. & cert. ef. 3-14-03; ODE 25-2008, f. & cert. ef. 9-26-08; ODE 4-2015, f. 1-30-15, cert. ef. 7-1-15; ODE 21-2015, f. & cert. ef. 12-18-15

581-022-0405

Career Education

Each school district shall implement plans for career education for Grades K through 12, as part of its comprehensive guidance and counseling program, based on the Oregon Department of Education's "Framework for Comprehensive Guidance and Counseling Programs for Pre-Kindergarten through Twelfth Grade." Career education curriculum is part of the overall comprehensive guidance and counseling curriculum, written to address Essential Skills, Education Plan and Education Profile and the four interrelated student developmental domains: academic, career, personal/social, and community involvement.

Stat. Auth.: ORS 326.051 & 329.275

Stats. Implemented: ORS 326.051

Hist.: 1EB 19-1980, f. 6-17-80, ef. 9-1-81; EB 4-1989, f. & cert. ef. 1-23-89; ODE 19-2008, f. & cert. ef. 6-27-08

581-022-0413

Prevention Education Programs in Drugs and Alcohol

(1) Each school district shall develop a comprehensive plan for alcohol and drug abuse prevention program which shall include, but not limited to:

(a) Instruction in the effects of tobacco, alcohol, drugs, including anabolic steroids, performance-enhancing and controlled substances as an integral part of the district's K-12 comprehensive health education program. In addition, at least annually, all high school students, grades 9-12 shall receive age-appropriate instruction about drug and alcohol prevention

(A) The age-appropriate curriculum for this instruction shall:

(i) Emphasize prevention strategies;

(ii) Be reviewed and updated annually to reflect current research; and

(iii) Be consistent with State Board adopted Health Education Academic Content Standards.

(B) Basic information shall include:

(i) The effects of alcohol, tobacco and other drug use, including anabolic steroids, performance-enhancing and controlled substances

(ii) All laws relating to the use, especially by minors, of alcohol and other illegal drugs; and

(iii) The availability of school and community resources.

(C) The instructional program shall include activities which will assist students in developing and reinforcing skills to:

(i) Understand and manage peer pressure;

(ii) Understand the consequences of consuming alcohol and other drugs;

(iii) Make informed and responsible decisions; and

(iv) Motivate students to adopt positive attitudes towards health and wellness.

(b) A public information program for students, parents, and district staff; and

(c) Policies, rules, and procedures which:

(A) Include a philosophy statement relating to drug-free schools and the established tobacco-free policies and procedures for students, staff and visitors.

(B) Define the nature and extent of the district's program, including a plan to access and use federal funds;

(C) State that alcohol, tobacco, and other drug use by student is illegal and harmful;

(D) In accordance with OAR 581-021-0050 and 581-021-0055, indicate the consequences for using and/or selling alcohol and other drugs, including the specific rule of the school as it relates to law enforcement agencies;

(E) Describe the district's intervention and referral procedures, including those for drug-related medical emergencies;

(F) Indicate clearly that the school district's jurisdiction includes all school sponsored events including student activities; and

(G) Are reviewed and updated annually.

(2) The district's drug and alcohol prevention and intervention program shall be approved by the school district board after consultation from parents, teachers, school administrators, local community agencies, and persons from the health or alcohol and drug service community who are knowledgeable of the latest research information.

(3) Staff development in the district shall:

(a) Inform all staff of the district plan and their responsibilities within that plan; and

(b) Provide alcohol and drug abuse prevention education to all staff.

Stat. Auth.: ORS 326.051, 336.235

Stats. Implemented: ORS 336.067, 336.222

Hist.: EB 30-1989, f. & cert. ef. 10-24-89; ODE 14-2008, f. & cert. ef. 5-23-08

581-022-0416

Anabolic Steroids and Performance Enhancing Substances

(1) As used in this rule:

(a) "Anabolic steroid" includes any drug or hormonal substance chemically or pharmacologically related to testosterone, all prohormones, including dehydroepiandrosterone and all substances listed in the Anabolic Steroid Control Act of 2004. "Anabolic steroid" does not include estrogens, progestins, corticosteroids and mineralocorticoids.

(b) "Performance-enhancing substance" means a manufactured product for oral ingestion, intranasal application or inhalation containing compounds that:

(A) Contain a stimulant, amino acid, hormone precursor, herb or other botanical or any other substance other than an essential vitamin or mineral; and

(B) Are intended to increase athletic performance, promote muscle growth, induce weight loss or increase an individual's endurance or capacity for exercise.

(c) "School district employee" means:

(A) An administrator, teacher or other person employed by a school district;

(B) A person who volunteers for a school district; and

(C) A person who is performing services on behalf of a school district pursuant to a contract.

(2) Each school district shall:

(a) Utilize evidence-based programs such as the Oregon Health and Science University's Athletes Training and Learning to Avoid Steroids (ATLAS) and Athletes Targeting Healthy Exercise and Nutrition Alternatives (ATHENA) for the reduction in anabolic steroid and performance-enhancing substance abuse by high school athletes.

(b) Ensure school district employees who are coaches or athletic directors receive training once every four years on identifying the components of anabolic steroids abuse and prevention strategies for the use of performance-enhancing substances.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 342.721 & 342.726

Hist.: ODE 22-2008, f. 8-28-08, cert. ef. 8-29-08

581-022-0421

Safety of School Sports — Concussions

(1) As used in this rule:

(a) "Annual training" means once in a twelve month period.

(b) "Coach" means a person who instructs or trains members on a school athletic team and may be:

(A) A school district employee;

(B) A person who volunteers for a school district

(C) A person who is performing services on behalf of a school district pursuant to a contract.

(c) "Concussion" means exhibiting signs, symptoms or behaviors consistent with a concussion following an observed or suspected blow to the head or body.

(d) "Health care professional" means a medical doctor, osteopathic physician, psychologist, physician assistant or nurse practitioner licensed or certified under the laws of this state.

(e) "Proper medical treatment" means treatment provided by a licensed health care professional which is within their scope of practice.

(f) "Return to participation" means a student can rejoin the athletic event or training.

(g) "Training timeline" means every coach receives the training prior to the beginning of the season for the school athletic team they are specifically coaching.

(h) "Same day" means the same calendar day on which the injury occurs.

(2) Each school district shall:

(a) Develop a list of coaches.

(b) Identify which community (may include state or national) resources the district will use to provide the training as required in section (3) of this rule.

(c) Develop training timelines for coaches of all school athletic teams.

(d) Ensure coaches receive training once every twelve months.

(e) Develop a tracking system to document that all coaches meet the training requirements of this rule.

(f) Ensure no coach allows a member of a school athletic team to participate in any athletic event or training on the same calendar day that the member:

(A) Exhibits signs, symptoms or behaviors consistent with a concussion following an observed or suspected blow to the head or body; or

(B) Has been diagnosed with a concussion.

(g) Except as provided by subsection (3) in this section ensure no coach will allow a student who is prohibited from participating in an athletic event or training, as described in section (2)(f), to return to participate in an athletic event or training no sooner than the day after the student experienced a blow to the head or body. The student may not return to participate in an athletic event or training until the following two conditions have been met:

(A) The student no longer exhibits signs, symptoms or behaviors consistent with a concussion; and

(B) The student receives a medical release form from a health care professional.

(3) A coach may allow a member of a school athletic team to participate in any athletic event or training at any time after an athletic trainer registered by the Board of Athletic Trainers determines that the member has not suffered a concussion. The athletic trainer may, but is not required to, consult with a health care professional in making the determination that the member has not suffered a concussion.

(4) The training required of coaches under this rule shall include the following:

- (a) Training in how to recognize the signs and symptoms of a concussion;
- (b) Training in strategies to reduce the risk of concussions;
- (c) Training in how to seek proper medical treatment for a person suspected of having a concussion; and
- (d) Training in determination of when the athlete may safely return to the event or training.

Stat. Auth.: ORS 336.485

Stats. Implemented: ORS 336.485

Hist.: ODE 13-2010, f. & cert. ef. 6-30-10; ODE 2-2011, f. 1-31-11, cert. ef. 2-1-11; ODE 29-2015, f. & cert. ef. 12-22-15

581-022-0606

District Continuous Improvement Plan

(1) For the purposes of OAR 581-022-0606 the following definitions apply:

(a) “Aligned with standards” means that the taught curriculum (what teachers teach), the learned curriculum (what students learn), and the assessed curriculum (what students are tested on) as identified through state and national academic standards do not deviate significantly one from another. This alignment includes four components:

(A) Content match — topical coverage, or comprehensiveness and level of detail

(B) Depth match — level of difficulty, or cognitive complexity

(C) Emphasis match — the relative duration of the instruction about each topic/standard within a subject

(D) Performance match — the type of performance required to demonstrate proficiency of the standard

(b) “Data-driven” means the use of information available from a high quality data system to focus decisions regarding curriculum, instruction, staff assignment, and staff development to promote student achievement through a planned, systemic program improvement effort.

(c) “Family and community engagement” means a system of shared responsibility in which schools and other community agencies and organizations are committed to engaging families in meaningful and culturally respectful ways while families are committed to actively supporting their children’s learning and development.

(d) “High quality data system” means a method by which teachers and administrators have access to data needed for instructional and administrative decision-making, one that makes available to the public appropriate data content and displays and provides for regular updates to the data, maintenance and upgrading of the system, and training for key personnel on use and maintenance. The collection and use of data in such a system would include district-, school-, and student-level data describing but not limited to:

- (A) Instruction;
- (B) Accountability;
- (C) Demographics;
- (D) Achievement; and
- (E) Assessment.

(e) “High quality instructional programs” means that teachers teach knowledge and skills through the use of an appropriate variety of instructional strategies reflecting best practice and based on state/national standards and assessments that effectively measure what the standards require. Such instruction is not universal but is situational based on instructional context.

(f) “Long-term professional development plans” means teacher training reflecting best practice as defined by national standards related to content, process, and context. Such training supports:

- (A) Continuing advancement of professional collaboration;
- (B) Ongoing, job-embedded experiences,
- (C) Standards-based instruction, and
- (D) Continual, guided reflection on school/student data a part of professional learning.

(g) “Rigorous curriculum” means multiple courses of study any one of which will prepare students to successfully meet the Oregon diploma requirements. These courses are cognitively demanding and challenging to students as those students apply the fundamental concepts and skills from various disciplines to real world problems in complex and open ended situations.

(h) “Safe educational environment” means a healthy, positive school climate free of drug use, gangs, violence, intimidation, fear, and shaming, ensuring the physical and emotional well-being and academic and social growth of every student.

(i) “Service plans for students” means a system of planned services outlining student educational activities, supporting students in meeting expectations for one or more content areas and continuing to academically challenge students who have exceeded expectations in one or more content areas.

(j) “Short-term professional development plans” means a component of a long term professional development plan with a direct connection with one or more of the following—individual continuing professional development plans; board, district or school goals; state certification criteria; or other regulatory mandates. Such plans may be responsive to emerging needs not yet addressed in long-term professional development plans.

(k) “Staff leadership development” means practices, policies, and procedures that create shared leadership opportunities and empower teacher participation in setting and achieving school goals and policies.

(l) “Strong school library program” means a planned effort to ensure the instruction of students, school staff, and the broader learning community in library skills, information literacy, and educational technology; such a program promotes a rich array of literacy experiences supporting life-long reading; facilitates collaboration in lesson planning and instruction; ensures equitable access to library resources and licensed school librarians; and develops and manages current, plentiful, and diverse library collections of print and electronic resources that support classroom curricula and student interests.

(2) Each school district shall conduct self-evaluations in order to develop and update their local district continuous improvement plans once every three years. Except as provided in subsection (3) of this rule, the department may not require school districts or schools to conduct self-evaluations or to update their local district continuous improvement plans more frequently than biennially.

(3) Each school district shall:

(a) Submit its local district continuous improvement plan to the Department of Education once every three years unless there are substantial changes.

(b) Notify the Department and update its local district continuous improvement plan when there has been a substantial changes.

(c) Substantial change is defined as changes to:

- (A) School or district improvement status under state or federal law;
- (B) Student academic achievement;
- (C) Student demographics (including changes in excess of 10% in identified subgroups);
- (D) Instructional staffing (either counts of personnel or changes in individual staff);
- (E) Financial resources available to the district; or
- (F) The district’s goals for student achievement.

(4) The self-evaluation process shall involve the public in the setting of local goals. The school district shall ensure that representatives from the demographic groups of their school population are invited to participate in the development of local district continuous improvement plans to achieve the goals.

(5) As part of setting local goals, school districts shall undertake a communications process that involves parents, students, teachers, school employees and community representatives to

explain and discuss the local goals and their relationship to programs in the continuous improvement plan.

(6) At the request of the school district, department staff shall provide ongoing technical assistance in the development and implementation of the local district continuous improvement plan.

(7) The local district continuous improvement plan shall include:

- (a) A rigorous curriculum aligned with state standards;
- (b) High-quality instructional programs;
- (c) Short-term and long-term professional development plans;
- (d) Programs and policies to achieve a safe educational environment;
- (e) A plan for family and community engagement;
- (f) Staff leadership development;
- (g) High-quality data systems;
- (h) Improvement planning that is data-driven;
- (i) Education service plans for students who have or have not exceeded all of the academic content standards;
- (j) A strong school library program;
- (k) A review of demographics, student performance, staff characteristics and student access to, and use of, educational opportunities; and
- (l) District efforts to achieve local efficiencies and efforts to make better use of resources.

(8) Each school district shall annually review and report test results and progress on the district improvement plan to the community.

(9) Each school district shall maintain copies of the school and district improvement plans as a public record.

(10) Each school district shall submit the district improvement plan to the Department of Education when requested.

Stat. Auth.: ORS 326.051 & 329.095

Stats. Implemented: ORS 326.051 & 329.095

Hist.: 1EB 19-1980, f. 6-17-80, ef. as follows: Section (1) 9-1-80; Sections (2), (4), (5) 9-1-81; Section (3) 7-1-80; 1EB 26-1980, f. 11-7-80, ef. as follows: Sections (1) and (3) 9-1-81; Sections (2), (4) and (5) 9-1-82; 1EB 21-1986, f. & ef. 7-2-86; EB 38-1990, f. & cert. ef. 7-10-90; EB 15-1996, f. & cert. ef. 9-26-96; ODE 25-2008, f. & cert. ef. 9-26-08; ODE 38-2013, f. & cert. ef. 12-18-13

581-022-0610

Administration of State Assessments

(1) Definitions. As used in this rule:

(a) “Accommodations” means changes in procedures or materials that increase equitable access during assessment and generate valid assessment results for students for whom there is documentation of need on an Individualized Education Program (IEP) or 504 (Plan); they allow these students to show what they know and can do.

(b) “Designated supports” means access features of the assessment available for use by any student for whom the need has been indicated by an educator or team of educators.

(c) “District test coordinator” (DTC) means district personnel who ensure secure administration of Oregon Statewide Assessments as defined by Oregon Revised Statute, Administrative Rules, and the Test Administration Manual, including but not limited to supervising the work of the school test coordinators and test administrators.

(d) “Force majeure” means an extraordinary circumstance (e.g., power outage or network disturbance lasting at least one full school day) or act of nature (e.g., flooding, earthquake, volcano eruption) which directly prevents a school district from making reasonable attempts to adhere to the Test Schedule.

(e) “Impropriety” means the administration of an Oregon Statewide Assessment in a manner not in compliance with the Test Administration Manual, Oregon Revised Statute, or this rule.

(f) “Invalidation” means the act of omitting test results and student responses from the testing, reporting, and accountability systems for a given testing event for which the student may not retest.

(g) “Irregularity” means an unusual circumstance that impacts a group of students who are testing and may potentially affect student performance on the assessment or interpretation of the stu-

dents’ scores. A force majeure is an example of a severe irregularity.

(h) “Modification” means practices and procedures that compromise the intent of the assessment through a change in the achievement level, construct, or measured outcome of the assessment.

(i) “Universal Tools” means access features of the assessment that are either provided as digitally-delivered components of the test administration system or separate from it. Universal tools are available to all students based on student preference and selection.

(j) “Oregon Statewide Assessments” means:

(A) The Oregon Assessment of Knowledge and Skills (OAKS) in:

(i) Science;

(i) Social Sciences;

(B) The Smarter Balanced Assessments (Smarter) in:

(i) Mathematics

(ii) English Language Arts (ELA)

(C) The English Language Proficiency Assessment (ELPA21);

(D) The Extended Assessment in:

(i) English Language Arts (ELA);

(ii) Mathematics;

(iii) Science; and

(E) The Kindergarten Assessment

(k) “Reset” means the removal of student responses from the web-based testing application for a given testing event for which the student may retest.

(l) “School building” means facilities owned, leased, or rented by a school district, educational service district, public charter school, private school, or private alternative program.

(m) “School district” means:

(A) A school district as defined in ORS 332.002;

(B) The Oregon School for the Deaf;

(C) The Juvenile Detention Education Program as defined in ORS 326.695;

(D) The Youth Corrections Education Program as defined in ORS 326.695;

(E) The Long Term Care Program as defined in ORS 343.961; and

(F) The Hospital Education Programs as defined in ORS 343.261.

(n) “School test coordinator” (STC) means school personnel who provide comprehensive training to test administrators and monitor the testing process.

(o) “Test Administration Manual” means a manual published annually by ODE that includes descriptions of the specific policies and procedures that school districts are required to follow when administering any component of the Oregon Statewide Assessments. References to the Test Administration Manual refer to the edition in effect at the time of test administration and include appendices and any addenda published in accordance with ODE’s revision policy.

(p) “Test administrator” (TA) means an individual trained to administer the Oregon Statewide Assessments in accordance with the Test Administration Manual.

(q) “Test Schedule” means the Test Schedule and Required Ship Dates published annually by ODE that includes the windows in which school districts must offer their students the Oregon Statewide Assessments and the deadline by which DTCs must ship or postmark test materials.

(2)(a) School districts, as defined in ORS 332.002, must enforce the assessment policies described in this rule for all students enrolled in a school operated by the district or enrolled in a public charter school that is located within the boundaries of the school district.

(b) School districts, as defined in ORS 332.002, must enforce the assessment policies described in this rule for all resident students enrolled in a private alternative education program, regardless of whether the private alternative education program is located within the boundaries of the school district.

(c) The Oregon School for the Deaf must enforce the assessment policies described in this rule for all students enrolled in that school.

(d) The Juvenile Detention Education Program and the Youth Corrections Education Program must enforce the assessment policies described in this rule for all students enrolled in that program.

(e) The Long Term Care Program and the Hospital Education Programs must enforce the assessment policies described in this rule for all students enrolled in that program.

(f) School districts may delegate responsibility for enforcing the assessment policies described in this rule to another school district or education service district under the conditions specified in the Test Administration Manual.

(3) School districts must administer Oregon Statewide Assessments in accordance with the Test Administration Manual and Test Schedule published by ODE. The results of these assessments are used to satisfy the requirements specified in OAR 581-022-1670 and 581-022-0606 and as a method to evaluate compliance with 581-022-1210.

(4) School districts must ensure that students are administered the proper Oregon Statewide Assessment and that the testing environment satisfies the following testing conditions:

(a) School districts must ensure that Oregon Statewide Assessments are administered by a trained TA who has signed an Assurance of Test Security form for the current school year on file in the district office;

(b) School districts must administer Oregon Statewide Assessments in a school building or in an environment that otherwise complies with the Test Administration Manual;

(c) School districts must apply the following criteria in deciding whether to provide a student with an accommodation during administration of an Oregon Statewide Assessment:

(A) School districts must decide whether to provide accommodations during an assessment on an individual student basis and separately for each content area to be assessed; and

(B) For students with an Individualized Education Plan (IEP) or 504 Plan, school districts must implement the assessment decision made by a student's IEP or 504 team and documented in the IEP or 504 Plan;

(d) School districts may only administer modifications to students with an IEP or 504 Plan and only in accordance with the assessment decision made by the student's IEP or 504 team and documented in the IEP or 504 Plan. Before administering an assessment using a modification, a student's IEP or 504 team must inform the student's parent that the use of a modification on an assessment will result in an invalid assessment;

(e) School districts must provide only those subject-specific accommodations, designated supports, and universal tools listed in the Oregon Accessibility Manual and must provide these supports in a manner consistent with the policies contained in the Test Administration Manual and Oregon Accessibility Manual;

(f) School districts must ensure that students do not access electronic communication devices such as cellular phones or personal digital assistants (PDAs) during an assessment; and

(g) School districts must follow all additional testing conditions specified in the Test Administration Manual.

(5) Failure by a school district to comply with section (4) of this rule constitutes an impropriety as defined in section (1)(e) of this rule. DTCs must report all potential improprieties or irregularities to ODE within one business day of learning of the potential impropriety or irregularity in accordance with the reporting procedures contained in the Test Administration Manual.

(6) The ODE may invalidate assessment results and student responses for assessments administered under conditions not meeting the assessment administration requirements specified in Sections 3 and 4 of this rule. In rare instances, ODE may reset a student assessment at the request of the school district if ODE determines that a reset would not compromise the security or validity of the assessment.

(7) ODE counts assessments that meet the following conditions as non-participants in ODE calculations of participation and does not include such assessments in ODE calculations of performance:

(a) Assessments administered using modifications as defined in section (1)(h) of this rule;

(b) Invalidated assessments;

(c) Assessments administered outside the testing window specified in the Test Schedule; or

(d) Assessments shipped or postmarked after the dates identified in the Test Schedule.

(8) ODE only allows extensions to the testing window or shipping deadlines identified in the Test Schedule in cases where a force majeure occurs within three days of the close of the testing window or shipping deadline and prevents a school district from meeting the deadline. Upon receiving a force majeure extension request from the school district, ODE may permit a one-day extension of the testing window or shipping deadline for each day of the force majeure, for up to five days. The force majeure extension begins on the first school day after normal operations resume and ends no later than the last school day in the month in which the testing window closes.

(9) School districts may only assess students using the Extended Assessment instead of OAKS or Smarter if the student has an IEP Plan and the student's Plan indicates that the student requires the Extended Assessment.

(10) School districts must administer ELPA annually to all students determined by the school district to be eligible for English language development (ELD) services under Title III of the Elementary and Secondary Education Act (ESEA), regardless of whether an eligible student actually receives ELD services.

(11) Administration of the Kindergarten Assessment is governed by OAR 581-022-2130.

Stat. Auth.: ORS 326.051 & 329.075

Stats. Implemented: ORS 329.075 & 329.485

Hist.: IEB 2-1985, f. 1-4-85, ef. 1-7-85; EB 14-1990(Temp), f. & cert. ef. 3-5-90; ODE 6-2002(Temp), f. & cert. ef. 2-15-02 thru 6-30-02; ODE 16-2002, f. & cert. ef. 6-10-02; ODE 30-2008, f. 12-16-08, cert. ef. 12-19-08; ODE 12-2009, f. & cert. ef. 12-10-09; ODE 7-2010, f. & cert. ef. 5-27-10; ODE 7-2011, f. & cert. ef. 7-1-11; ODE 34-2014, f. & cert. ef. 6-24-14; ODE 26-2015, f. & cert. ef. 12-21-15

581-022-0612

Exception of Students with Disabilities from State Assessment Testing

(1) For the purposes of this rule a "student with a disability" is a student identified under the Individuals with Disabilities Education Act, consistent with OAR chapter 581, division 15, or a student with a disability under Section 504 of the Rehabilitation Act of 1973.

(2) A public agency shall not exempt a student with a disability from participation in the Oregon State Assessment System or any district wide assessments to accommodate the student's disability unless the parent has requested such an exemption.

Stat. Auth.: ORS 326.051 & 343.045

Stats. Implemented: ORS 329.485 & 659.850

Hist.: ODE 3-2002(Temp), f. & cert. ef. 1-25-02 thru 6-30-02; ODE 14-2002, f. & cert. ef. 5-15-02; ODE 25-2008, f. & cert. ef. 9-26-08

581-022-0615

Assessment of Essential Skills

(1) Definitions. As used in this rule:

(a) "Assessment option" means an assessment approved to assess proficiency in the Essential Skills for the purpose of earning a high school diploma or a modified diploma.

(b) "Essential Skills" means process skills that cross academic disciplines and are embedded in the content standards. The skills are not content specific and can be applied in a variety of courses, subjects, and settings.

(c) "Local performance assessment" means a standardized measure (e.g., activity, exercise, problem, or work sample scored using an official state scoring guide), embedded in the school districts' and public charter schools' curriculum that evaluates the application of students' knowledge and skills.

(d) “Official state scoring guide” means an evaluation tool designed for scoring student work that includes specific, consistent assessment criteria for student performance and a 1-6 point scale to help rate student work. It is used by Oregon teachers to evaluate student work samples.

(e) “Student-initiated test impropriety” means student conduct that:

- (A) Is inconsistent with:
 - (i) The Test Administration Manual; or
 - (ii) Accompanying guidelines; or
- (B) Results in a score that is invalid.

(f) “Work sample” means a representative sample of individual student work (e.g., research papers, statistical experiments, speaking presentations, theatrical performances, work experience) that may cover one or more content areas and therefore may be scored using one or more official state scoring guide(s). At the high school level, a work sample can be used to fulfill both the local performance assessment requirement described in Section 2 of this rule and the Essential Skills requirement described in Section 3 of this rule.

(2) School districts and public charter schools that offer grades 3 through 8 or high school shall administer local performance assessments for students in grades 3 through 8 and at least once in high school. For each skill area listed in section (17) of this rule, the assessments shall consist of:

(a) One work sample per grade scored using official state scoring guides; or

(b) Comparable measures adopted by the district.

(3) School districts and public charter schools shall require high school students to demonstrate proficiency in the Essential Skills using assessment options that are approved by the State Board of Education for the purpose of student eligibility for:

(a) The high school diploma as established in OAR 581-022-1130; or

(b) The modified diploma as established in OAR 581-022-1134.

(4) Pursuant to ORS 339.115 and 339.505, school districts and public charter schools shall provide any eligible student with instruction in and multiple assessment opportunities to demonstrate proficiency in the Essential Skills for the purpose of achieving the high school diploma or the modified diploma.

(5) To be eligible to receive a high school diploma or a modified diploma:

(a) For students first enrolled in grade 9 during the 2008–2009 school year, school districts and public charter schools shall require students to demonstrate proficiency in the Essential Skill listed in section (16)(a) of this rule: Read and comprehend a variety of text.

(b) For students first enrolled in grade 9 during the 2009–2010 school year, school districts and public charter schools shall require students to demonstrate proficiency in the Essential Skills listed in sections (16)(a)-(b) of this rule:

- (A) Read and comprehend a variety of text; and
- (B) Write clearly and accurately.

(c) For students first enrolled in grade 9 during the 2010–2011 school year, school districts and public charter schools shall require students to demonstrate proficiency in the Essential Skills listed in section (16)(a)–(c) of this rule:

- (A) Read and comprehend a variety of text;
- (B) Write clearly and accurately; and
- (C) Apply mathematics in a variety of settings.

(d) For students first enrolled in grade 9 during the 2011–2012 school year or first enrolled in grade 9 in any subsequent school year, school districts and public charter schools shall require students to demonstrate proficiency in the Essential Skills listed in Section 16(a)–(c) of this rule and any additional Essential Skills for which:

(A) The State Board of Education has adopted the determination to phase in for inclusion in the high school diploma and modified diploma requirements; and

(B) The State Board of Education has adopted assessment options by March 1 of the student’s 8th grade year.

(e) School districts and public charter schools may require students to demonstrate proficiency in additional Essential Skills beyond the minimum requirements described in section (5)(a)–(d) of this rule.

(6) The Superintendent of Public Instruction shall establish an Assessment of Essential Skills Review Panel (AESRP) to make recommendations on:

(a) The phasing in of Essential Skills for inclusion in the high school diploma and the modified diploma requirements;

(b) The adoption of assessment options to measure students’ proficiency in the approved Essential Skills for the purpose of the high school diploma or the modified diploma; and

(c) The achievement standards used to determine student eligibility for the high school diploma or the modified diploma.

(7) The AESRP shall work toward the goal of a system with a high degree of technical adequacy and equivalent rigor between assessment options as practicable.

(8) The AESRP shall base its recommendations on evidence provided by:

- (a) School districts;
- (b) Research organizations; and
- (c) Other experts.

(9) The AESRP shall consist of assessment experts from:

(a) School districts, including but not limited to:

- (A) Superintendents;
 - (B) Principals;
 - (C) Curriculum Directors;
 - (D) Educators;
 - (E) Special education educators; and
 - (F) English Language Learners (ELL) educators;
- (b) Post-secondary education institutions; and
- (c) Business partners who have expertise in:

- (A) Assessment design;
- (B) Assessment administration; or
- (C) Use of assessments

(10) The State Board of Education shall make the determination to adopt the AESRP’s recommended assessment options, and achievement standards for the purpose of conferring high school diplomas and modified diplomas. The determination of the State Board of Education will be final and not subject to appeal.

(11) The ODE shall issue the State Board of Education’s intentions regarding the AESRP’s recommendations by December 15 of each year and formal notice of the State Board of Education’s final determination regarding the AESRP’s recommendations by March 1 of each year as an addendum to the Test Administration Manual, which the ODE shall issue by August 1 of each year.

(12) School districts and public charter schools shall adhere to the requirements set forth in the Test Administration Manual to:

- (a) Administer;
- (b) Score;
- (c) Manage; and

(d) Document the district and school assessments of students’ proficiency in the Essential Skills required to receive a high school diploma or a modified diploma.

(13) School districts and public charter schools shall establish conduct and discipline policies addressing student-initiated test impropriety.

(14) School districts and public charter schools shall allow students to use assessment options and achievement standards adopted by the State Board of Education in a student’s ninth through twelfth grade years as follows:

(a) Students may demonstrate proficiency in the Essential Skills using assessment options adopted in their ninth through twelfth grade years.

(b) Students may use achievement standards adopted in their 9th through 12th grade years that are equal to or lower than the achievement standards approved as of March 1 of the students’ 8th grade year.

(15) Districts may develop and administer a local assessment option for students to demonstrate proficiency in the Essential Skills, using established professional and technical standards in

place of the assessment options adopted by the State Board of Education as described in section 14 of this rule. Districts that choose this option are required to publish:

- (a) A communication strategy to ensure stakeholders are notified of the district's approach to the local assessment option; and
- (b) Materials written in plain language that contain descriptions of the

- (A) Purpose of the assessment;
- (B) Scoring methodology;
- (C) Method by which students and parents will receive results from the assessment;

- (D) Criteria for determining student proficiency using the assessment; and

- (E) Criteria for determining which students will have access to the assessment

(16) The ODE shall publish the subset of Essential Skills assessment options and the associated performance levels which may be used by each of Oregon's post-secondary institutions as defined by those institutions' policies provided to the ODE by October 15 of each year.

(17) The Essential Skills identified by the State Board of Education as of July 1, 2008 are as follows:

- (a) Read and comprehend a variety of text;
- (b) Write clearly and accurately;
- (c) Apply mathematics in a variety of settings;
- (d) Listen actively and speak clearly and coherently;
- (e) Think critically and analytically;
- (f) Use technology to learn, live, and work;
- (g) Demonstrate civic and community engagement;
- (h) Demonstrate global literacy; and
- (i) Demonstrate personal management and teamwork skills.

(18) School districts and public charter schools shall include one or more local performance assessments for grades 3 through 8 and for high school for each of the following skill areas:

- (a) Writing;
- (b) Speaking;
- (c) Mathematical problem-solving; and
- (d) Scientific inquiry.

(19) School districts and public charter schools may include one social science analysis work sample that is administered in accordance with school district or public charter school policies as a local performance assessment for grades 3 through 8 and for high school.

(20) For students on an Individualized Education Plan (IEP) or 504 Plan, if a student's IEP or 504 Team determines that the nature of a student's disability prevents the student from demonstrating proficiency in an Essential Skill using any of the approved assessment options listed in the Test Administration Manual, the student's IEP Team may exempt the student from the requirement as listed in the Test Administration Manual and determine an appropriate replacement assessment option for the student to use that addresses the Essential Skill in a manner that is consistent with:

- (a) The student's instructional plan; and
- (b) The state assessment criteria adopted by the State Board of Education.

(21) For students seeking a modified diploma, school districts and public charter schools may modify the assessment options adopted by the State Board of Education when the following conditions are met:

- (a) For students on IEP or 504 Plans:

(A) School districts and public charter schools must comply with all requirements established by the student's IEP or 504 Plan when implementing modifications for work samples;

(B) School districts and public charter schools must comply with OAR 581-022-0610 section (4)(d) when implementing modifications for a statewide assessment.

- (b) For students not on IEP or 504 Plans:

(A) School districts and public charter schools may only implement modifications for work samples that are consistent with the modifications the student has received during instruction in the

content area to be assessed in the year in which the work sample is administered.

(B) School districts and public charter schools must obtain approval from the school team responsible for monitoring the student's progress toward the modified diploma before implementing modifications for work samples.

(C) Consistent with OAR 581-022-0610, school districts and public charter schools may not implement modifications for statewide assessments for students who are not on an IEP or 504 Plan.

Stat. Auth.: ORS 329.451, 338.025, 339.115 & 339.505

Stats. Implemented: 329.045, 329.075, 329.451, 329.485 & 338.115

Hist.: ODE 17-2008, f. & cert. ef. 6-27-08; ODE 10-2009(Temp), f. & cert. ef. 9-1-09 thru 2-28-10; ODE 19-2009, f. & cert. ef. 12-10-09; ODE 8-2011, f. & cert. ef. 7-1-11

581-022-0617

Essential Skills for English Language Learners

(1) Definitions. As used in this rule:

(a) "Assessment option" means an assessment approved to assess proficiency in the Essential Skills for the purpose of earning a high school diploma or a modified diploma.

(b) "English Language Learner" (ELL) means a student who meets the definition of "Limited English Proficient" found in Title IX, Part A, Section 9101.25 of the No Child Left Behind Act of 2001 (NCLB).

(c) "Essential Skills" means process skills that cross academic disciplines and are embedded in the content standards. The skills are not content specific and can be applied in a variety of courses, subjects, and settings.

(d) "Qualified Rater" means any individual who is:

(A) Trained to a high degree of proficiency in scoring the assessment administered to the student; and

(B) Endorsed by the school district or public charter school, consistent with local school board policy, as proficient in the student's language of origin for the purposes of accurately scoring the student's work in the student's language of origin.

(2) Consistent with OAR 581-022-0615, school districts and public charter schools must adopt a policy whether to allow ELL students to demonstrate proficiency in the Essential Skill of "Apply mathematics in a variety of settings" in the students' language of origin for those ELL students who by the end of high school:

(a) Are on track to meet all other graduation requirements; and

(b) Are unable to demonstrate proficiency in the Essential Skills in English.

(3) Consistent with OAR 581-022-0615, school districts and public charter schools must adopt a policy whether to allow ELL students to demonstrate proficiency in Essential Skills other than "Apply mathematics in a variety of settings" in the students' language of origin for those ELL students who by the end of high school:

(a) Meet the criteria in Section 2(a)–(b) of this rule;

(b) Have been enrolled in a U.S. school for five (5) years or less; and

(c) Have demonstrated sufficient English language skills using an English language proficiency assessment option that is approved by the State Board of Education. ODE will issue final notice of the State Board of Education's adoption of English language proficiency assessment in the Essential Skills and Local Performance Assessment Manual.

(4) If a school district or public charter school adopts a policy allowing ELL students to demonstrate proficiency in the Essential skills in the students' language of origin under Sections 2 and 3 of this rule, that policy must include the following:

(a) Development of a procedure to provide assessment options as described in the Essential Skills and Local Performance Assessment Manual in the ELL students' language of origin for those ELL students who meet the criteria in Section 2(a)–(b) of this rule.

(b) Development of a procedure to ensure that locally scored assessment options administered in an ELL student's language of origin are scored by a qualified rater.

Stat. Auth.: ORS 326.051 & 329.075
 Stats. Implemented: ORS 329.045, 329.075 & 329.485
 Hist.: ODE 18-2010, f. & cert. ef. 12-17-10; ODE 22-2016, f. & cert. ef. 3-22-16

581-022-0620

Test Development

(1) Definitions. As used in this rule:

(a) "Assessment item" means test items, stimuli, graphics, reading passages, writing prompts, answer keys, and scoring rubrics developed for use on an Oregon Statewide Assessment.

(b) "Oregon statewide assessment" means:

- (A) The English Language Proficiency Assessment (ELPA);
- (B) The Oregon Assessment of Knowledge and Skills (OAKS)

in:

- (i) Reading/Literature;
- (ii) Mathematics;
- (iii) Science;
- (iv) Social Sciences which may include history, geography, economics and civics;
- (v) Writing Performance; and
- (C) The OAKS Extended Assessment in:
 - (i) Reading/Literature;
 - (ii) Mathematics;
 - (iii) Science;
 - (iv) Writing Performance.

(2) ODE shall provide translated OAKS assessments as practicable for languages which are the language of origin for at least 9 percent of Oregon's student population for grades K–12 within 3 years after the school year in which the language first exceeds the 9 percent threshold.

(3) ODE shall maintain advisory groups to advise ODE on the development of assessment items and policies relating to the Oregon statewide assessment system. These advisory groups shall include Oregon educators and other persons. At a minimum, ODE shall maintain the following advisory groups:

(a) A National Technical Assessment Committee consisting of state and national experts to provide recommendations regarding:

- (A) Test design for the Oregon statewide assessments;
- (B) Best practices in assessment and accountability;
- (C) National trends in assessment and accountability; and
- (D) Federal compliance with assessment and accountability laws, rules, and regulations.

(b) A separate Content and Assessment Panel for each Oregon statewide assessment. Each Content and Assessment Panel consists of educators and other persons from throughout the state and provides recommendations regarding:

- (A) The quality, appropriateness, and accuracy of assessment items; and
- (B) The alignment of assessment items to the academic content standards adopted by the State Board of Education.

(c) A Sensitivity Panel consisting of educators and other persons representing diverse perspectives from throughout the state to:

(A) Develop sensitivity criteria to ensure that assessment items are free of bias and stereotyping and are accessible to all Oregon students; and

(B) Review OAKS and ELPA assessment items for compliance with the sensitivity criteria developed under Section 3(e)(A) of this rule.

Stat. Auth.: ORS 326.051 & 329.075
 Stats. Implemented: ORS 329.045, 329.075 & 329.485
 Hist.: ODE 5-2010, f. & cert. ef. 3-18-10

581-022-0705

Health Services

(1) The school district shall maintain a prevention oriented health services program for all students which provides:

(a) Health care and space that is appropriately supervised and adequately equipped for providing first aid, and isolates the sick or injured child from the student body;

(b) Communicable disease control, as provided in Oregon Revised Statutes;

(c) Health screening information, including required immunizations and TB certificates, when required by ORS 433.260 and 431.110 and OAR 333-019-0405;

(d) Services for students who are medically fragile or have special health care needs;

(e) Integration of school health services with school health education programs and coordination with health and social service agencies, public and private;

(f) Vision and hearing screening;

(g) Compliance with OR-OSHA Bloodborne Pathogens Standards for all persons who are assigned to job tasks which may put them at risk for exposure to body fluids (ORS 1910-1030); and

(h) Policy and procedures for medications, as per ORS 339.870.

(2) School districts shall adopt policies and procedures which consider admission, placement and supervision of students with communicable diseases, including but not limited to Hepatitis B (HBV), Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS) (OAR 333-019-0015).

(3) School districts which employ nurses to provide health services shall employ persons currently licensed to practice as Registered Nurses or Nurse Practitioners in Oregon:

(a) School districts may employ Licensed Practical Nurses, providing that their practice is supervised by a Registered Nurse or Nurse Practitioner with the above stated qualifications;

(b) Job descriptions shall reflect assignments complying with the Oregon State Board of Nursing (OSBN) Scope of Practice Administrative Rules for all levels of licensed providers, OAR 851-450-0000 to 0010 and 851-050-0000 and 0005; and

(c) If school districts employ Registered Nurses or Nurse Practitioners who are not licensed by Teacher Standards and Practices Commission as school nurses, the district shall not designate such personnel as "school nurse" by job title as per ORS 342.475 and 342.495.

(4) Each school shall have, at a minimum, at least one staff member with a current first aid card for every 60 students enrolled, or an emergency response team per building consisting of no less than six persons who hold current first aid/CPR cards and who are trained annually in the district and building emergency plans.

(5) The school district shall have policies and/or administrative procedures concerning employees with communicable diseases, including but not limited to Hepatitis B (HBV), Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS).

(6) Each school building must have a written plan for response to medical emergencies; such plan should be articulated with general emergency plans for buildings and districts as required by OAR 581-022-1420.

Stat. Auth.: ORS 326 & 342
 Stats. Implemented: ORS 326.051
 Hist.: 1EB 19-1980, f. 6-17-80, ef. 9-1-80; 1EB 16-1981 (Temp), f. & ef. 11-3-81; 1EB 12-1982, f. & ef. 3-24-82; EB 21-1988, f. & cert. ef. 4-26-88; EB 17-1996, f. & cert. ef. 11-1-96

581-022-0711

Policies on Reporting of Child Abuse

(1) Each school board shall adopt policies applicable to all school district employees, specifying that child abuse by school employees is not tolerated and that all school employees report suspected child abuse to a law enforcement agency, the Department of Human Services or a designee of the department as required by ORS 419B.010 and 419B.015 and report suspected child abuse to the employees' supervisors or other persons designated by the school board.

(2) The policy must:

(a) Designate a person to receive reports of suspected child abuse by school employees and specify the procedures to be followed by that person upon receipt of a report;

(b) Require the posting in each school building of the name and contact information for the person designated for the school building to receive reports of suspected child abuse by school

employees and the procedures the person will follow upon receipt of a report;

(c) Specify that the initiation of a report in good faith about suspected child abuse may not adversely affect any terms or conditions of employment or the work environment of the complainant;

(d) Specify that the school board or any school employee will not discipline a student for the initiation of a report in good faith about suspected child abuse by a school employee;

(e) Require notification by the school district to the person who initiated the report about actions taken by the school district based on the report;

(f) Require a written procedure for the reporting of child abuse by school employees in accordance with ORS 339.375; and

(g) Require a written procedure for providing annual training for:

(A) School employees each school year on the prevention and identification of child abuse and on the obligations of school employees under ORS 419B.005 to 419B.050 and under policies adopted by the school board to report child abuse;

(B) Parents and legal guardians of children who attend a school operated by the school board. The training shall be on the prevention and identification of child abuse and on the obligations of school employees under ORS 419B.005 to 419B.050. The training shall be provided separately from the training provided to school employees under paragraph (A) of this subsection.

(C) Children who attend a school operated by the education provider. The training shall be designed to prevent child abuse.

(3)(a) The school district shall maintain records of each reported incident of child abuse, action taken by the school district and any findings as a result of the report.

(b) A supervisor or other person designated by the school board in its policy who receives a report, shall follow the procedures required by the policy adopted by the school board under ORS 339.372 and this rule.

(c) Except as provided in paragraph (d) of this section, when a school district receives a report of suspected child abuse by one of its employees, and the school district determines that there is reasonable cause to support the report, the school district shall place the school employee on paid administrative leave until either:

(A) The Department of Human Services or a law enforcement agency determines that the report is unfounded or that the report will not be pursued; or

(B) The Department of Human Services or a law enforcement agency determines that the report is founded and the school district takes the appropriate disciplinary action against the school employee.

(d) If the Department of Human Services or a law enforcement agency is unable to determine, based on a report of suspected child abuse, whether child abuse occurred, an education provider may reinstate a school employee placed on paid administrative leave under paragraph (c) of this subsection or may take the appropriate disciplinary action against the employee.

(e)(A) Upon request from a law enforcement agency, the Department of Human Services or the Teacher Standards and Practices Commission, a school district shall provide the records of investigations of suspected child abuse by a school employee or former school employee.

(B) The disciplinary records of a school employee or former school employee convicted of a crime listed in ORS 342.143 are not exempt from disclosure under 192.501 or 192.502. If a school employee is convicted of a crime listed in 342.143, the school district that is the employer of the employee shall disclose the disciplinary records of the employee to any person upon request. If a former school employee is convicted of a crime listed in 342.143, the education provider that was the employer of the former employee when the crime was committed shall disclose the disciplinary records of the former employee to any person upon request.

(C) Prior to disclosure of a disciplinary record under this paragraph, the school district shall remove any personally identifiable information from the record that would disclose the identity of a

child, a crime victim or a school employee or former school employee who is not the subject of the disciplinary record.

Stat. Auth. ORS 326.051

Stats. Implemented: ORS 339.370, 339.372, 339.375, 339.377

Hist.: ODE 31-2008, f. 12-16-08, cert. ef. 12-19-08

581-022-0807

Standardization

(1) A school district, to be standard, must provide acceptable educational opportunities for all Oregon students who reside in the district regardless of where they live in the district.

(2) Local school districts shall cooperate with procedures to verify compliance with state standards, to collect information about schools, to identify exemplary performance, and to promote school improvement.

(3) Methods of verifying compliance and identifying practices or conditions needing improvement shall include:

(a) Assurances of the district school board designated chief administrative officer;

(b) Review of district materials through Department of Education desk audit;

(c) On-site review of practices or conditions; and

(d) Other methods selected by the Superintendent of Public Instruction.

(3) The Superintendent or a designee of the superintendent shall declare a school district as "Nonstandard" as defined in OAR 581-022-0102, after verification through the methods described in section (2) of this rule.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051 & 327.103

Hist.: 1EB 3-1985, f. 1-4-85, ef. 1-7-85; ODE 25-2008, f. & cert. ef. 9-26-08

581-022-1020

State Goals for Elementary and Secondary Education

State Goals for Elementary and Secondary Education Oregon's system of K–12 education plays a key role in preparing students to function effectively in a rapidly changing world. To successfully prepare students for the futures they choose to pursue, the State Board of Education identifies the following goals for Oregon's K–12 educational system:

(1) To insure that all Oregon students, regardless of linguistic background, culture, race, gender, capability, or geographic location, have access to a quality education in a safe, motivating environment;

(2) To provide an environment that motivates students to pursue serious scholarship and to have experience in applying knowledge and skills and demonstrating achievement;

(3) To encourage parental and community involvement in their student's education;

(4) To provide Oregon students the skills necessary to pursue learning throughout their lives in an ever changing world;

(5) To develop in Oregon students the core ethical values that our diverse society shares and holds important, including but not limited to, respect, responsibility, caring, trustworthiness, justice and fairness, and civic virtue and citizenship; and

(6) To equip Oregon students with the academic and career skills and information necessary to pursue the future of their choice through a program of rigorous academic preparation and career readiness; and

(7) To prepare students for successful transitions to the next phase of their educational development.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.011, 329.015, 329.025 & 336.067

Hist.: EB 9-1997, f. & cert. ef. 6-26-97; ODE 25-2008, f. & cert. ef. 9-26-08

581-022-1030

Local District Goals

Each school district shall maintain a coordinated K–12 program designed to improve student achievement, based on district goals adopted by the district school board and consistent with the goals adopted by the State Board in OAR 581-022-1020. To acknowledge their mutual responsibilities for the education of all students, local district goals should be developed and revised cooperatively by the school district and the community.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 329.045
Hist.: EB 7-1997, f. & cert. ef. 6-9-97

581-022-1060

School and District Performance Report Criteria

(1) The Superintendent of Public Instruction will annually collect data and produce annual school district and school performance reports to provide information to parents and to improve schools.

(2) The Superintendent will notify the public and the media by December 15 of each year that school and district performance reports are available at each school and school district and at the Department of Education website and office.

(3) Each school and school district report shall contain the information required by this rule. By January 15 of each year, school districts shall make a copy of the state provided school and school district performance report available to the parent(s) or guardian(s) of each child enrolled in a public school in the school district by doing one or more of the following:

- (a) Mailing a copy;
- (b) Electronically sending a copy; or

(c) Providing a link to a state or district web site containing the reports and also making copies available in local schools, libraries, parents centers, community centers, or other public locations easily accessible to parents and others.

(4) School performance reports will include ratings assigned by the Superintendent. School ratings shall be reported in terms of five levels.

(5) The school rating system will be based upon the following indicators:

- (a) Achievement in reading and mathematics.
- (b) Growth in reading and mathematics.
- (c) Growth for underserved subgroups of students.
- (d) Student participation rates in reading and mathematics.

(6) In addition to the indicators listed in subsection (5) of this section, for schools that are high schools or that offer grades 9, 10, 11 or 12 as part of the schools the rating system will also include the following indicators:

- (a) Graduation rates for all students.
- (b) Graduation rate for underserved subgroups.

(7) School performance reports may include information other than that listed in ORS 329.105 or sections (4), (5) and (6) of this rule. Such information will not be part of the calculation of the school rating.

(8) School district performance reports will be developed and must include the overall rating of each school in the district. The district performance report may include information other than that listed in ORS 329.105 or section (4) of this rule.

(9) School and school districts may include information in addition to that listed in ORS 329.105 or sections (4) and (5) of this rule in their locally prepared and distributed school and school district performance reports.

(10) School and school district performance reports, in conjunction with electronic supplements of the performance reports, will serve as the means by which the state meets the report card requirements of section 1111 of the Elementary and Secondary Education Act of 1965 (ESEA).

(11) The Superintendent shall produce a Policy and Technical Manual to provide school districts and schools with details of the data elements and calculations used the district and school performance reports. The Superintendent shall make the manual available to districts and schools.

Stat. Auth.: ORS 326.051 & 329.075
Stats. Implemented: ORS 329.105
Hist.: ODE 36-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 5-2007, f. & cert. ef. 2-21-07; ODE 25-2008, f. & cert. ef. 9-26-08; ODE 4-2009, f. & cert. ef. 6-29-09; ODE 17-2011, f. 12-15-11, cert. ef. 1-1-12; ODE 13-2013, f. & cert. ef. 7-11-13

581-022-1130

Diploma Requirements

(1) Each district school board and public charter school with jurisdiction over high school programs shall award diplomas to all students who fulfill all state requirements as described in sections (2) to (11) of this rule and all local school district requirements as described in district school board policies or all public charter school requirements as described in the policies or charter of the public charter school.

(2) Unit of Credit Requirements for students graduating before July 1, 2009:

(a) Each student shall earn a minimum of 22 units of credit to include at least:

- (A) English Language Arts — 3 (shall include the equivalent of one unit in Written Composition);
- (B) Mathematics — 2;
- (C) Science — 2;
- (D) Social Sciences 3 — (including history, civics, geography and economics (including personal finance));
- (E) Health Education — 1;
- (F) Physical Education — 1;
- (G) Career and Technical Education, The Arts or World Languages — 1 (one unit shall be earned in any one or a combination).

(b) A district school board or public charter school with a three-year high school may submit through the waiver process alternative plans to meet unit requirements;

(c) A district school board or public charter school may increase the number of units required in specific areas, and may increase or decrease the number of elective units; however, the total units of credit required for graduation shall not be less than 22;

(d) A school district or public charter school may grant high school credit for courses taken prior to grade 9 if students taking pre-grade 9 courses are required to meet performance criteria that are equivalent to the performance criteria for students taking the same high school courses;

(e) Course syllabi shall be written for courses in grades 9 through 12 and shall be available to students, staff, parents, the district school board and other interested individuals.

(3) Except as provided in section (4) of this rule, Unit of Credit Requirements for students graduating on or after July 1, 2009 and who were first enrolled in grade 9 prior to the 2008–2009 school year:

(a) Each student shall earn a minimum of 24 units of credit to include at least:

- (A) English Language Arts — 4 (shall include the equivalent of one unit in Written Composition);
- (B) Mathematics — 3;
- (C) Science — 2;
- (D) Social Sciences 3 — (including history, civics, geography and economics (including personal finance));
- (E) Health Education — 1;
- (F) Physical Education — 1;
- (G) Career and Technical Education, The Arts or World Languages — 1 (one unit shall be earned in any one or a combination).

(b) A district school board or public charter school with a three-year high school may submit through the waiver process alternative plans to meet unit requirements;

(c) A district school board or public charter school may increase the number of units required in specific areas, and may increase or decrease the number of elective units; however, the total units of credit required for graduation shall not be less than 24;

(d) A school district or public charter school may grant high school credit for courses taken prior to grade 9 if students taking pre-grade 9 courses are required to meet performance criteria that are equivalent to the performance criteria for students taking the same high school courses;

(e) Course syllabi shall be written for courses in grades 9 through 12 and shall be available to students, staff, parents, the district school board and other interested individuals.

(4) Notwithstanding sections (2) and (3) of this rule, for students who began grade 9 during the 2005–2006 school year and who attended school during the 2006–2007, 2007–2008 and 2008–2009 school years, the unit of credits required for graduating is as described in section (2) of this rule if the student graduates prior to July 1, 2010.

(5) Unit of Credit Requirements for students who were first enrolled in grade 9 during the 2008–2009 or 2009–2010 school year:

(a) Each student shall earn a minimum of 24 units of credit to include at least:

(A) English Language Arts — 4 (shall include the equivalent of one unit in Written Composition);

(B) Mathematics — 3;

(C) Science — 3;

(D) Social Sciences 3 — (including history, civics, geography and economics (including personal finance));

(E) Health Education — 1;

(F) Physical Education — 1;

(G) Career and Technical Education, The Arts or World Languages — 3 (units shall be earned in any one or a combination).

(b) A district school board or public charter school with a three-year high school may submit through the waiver process alternative plans to meet unit requirements;

(c) A district school board or public charter school may increase the number of units required in specific areas, and may increase or decrease the number of elective units; however, the total units of credit required for graduation shall not be less than 24;

(d) A school district or public charter school may grant high school credit for courses taken prior to grade 9 if students taking pre-grade 9 courses are required to meet performance criteria that are equivalent to the performance criteria for students taking the same high school courses;

(e) Course syllabi shall be written for courses in grades 9 through 12 and shall be available to students, staff, parents, the district school board and other interested individuals.

(6) Unit of Credit Requirements for students who were first enrolled in grade 9 during the 2010–2011 school year or first enrolled in grade 9 in any subsequent school year:

(a) Each student shall earn a minimum of 24 units of credit to include at least:

(A) English Language Arts — 4 (shall include the equivalent of one unit in Written Composition);

(B) Mathematics — 3 (shall include one unit at the Algebra I level and two units that are at a level higher than Algebra I);

(C) Science — 3;

(D) Social Sciences 3 — (including history, civics, geography and economics (including personal finance));

(E) Health Education — 1;

(F) Physical Education — 1;

(G) Career and Technical Education, The Arts or World Languages — 3 (units shall be earned in any one or a combination).

(b) A district school board or public charter school with a three-year high school may submit through the waiver process alternative plans to meet unit requirements;

(c) A district school board or public charter school may increase the number of units required in specific areas, and may increase or decrease the number of elective units; however, the total units of credit required for graduation shall not be less than 24;

(d) A school district or public charter school may grant high school credit for courses taken prior to grade 9 if students taking pre-grade 9 courses are required to meet performance criteria that are equivalent to the performance criteria for students taking the same high school courses;

(e) Course syllabi shall be written for courses in grades 9 through 12 and shall be available to students, staff, parents, the district school board and other interested individuals.

(7) Each student shall demonstrate proficiency in essential skills adopted by the State Board of Education as provided in OAR 581-022-0615;

(8) School districts shall develop a process that provides each student the opportunity to develop an education plan and build an education profile in grades 7 through 12 with adult guidance. The plan and profile shall be reviewed and updated periodically (at least annually) and be supported by a Comprehensive Guidance Program as defined in OAR 581-022-1510.

(9) Each student shall develop an education plan and build an education profile.

(a) Each student shall develop an education plan that:

(A) Identifies personal and career interests;

(B) Identifies tentative educational and career goals and post high school next steps (i.e. college, workforce, military, apprenticeship, other);

(C) Sets goals to prepare for transitions to next steps identified in section (7)(b);

(D) Designs, monitors and adjusts a course of study that meets the interest and goals of the student as described in subsection (a) (A), (B) and (C) of this rule that includes but is not limited to:

(i) Appropriate coursework and learning experiences;

(ii) Identified career-related learning experiences; and

(iii) Identified extended application opportunities.

(b) Through the education profile each student shall:

(A) Monitor progress and achievement toward standards including:

(i) Content standards;

(ii) Essential skills;

(iii) Extended application standard; and

(iv) Other standards where appropriate (e.g. industry standards).

(B) Document other personal accomplishments determined by the student or school district.

(C) Review progress and achievement in subsection (b)(A) and (B) of this subsection at least annually.

(10) Each student shall build a collection of evidence, or include evidence in existing collections(s), to demonstrate extended application (as defined in OAR 581-022-0102);

(11) Each student shall participate in career-related learning experiences outlined in the education plan (as defined in OAR 581-022-0102);

(12) Notwithstanding sections (1) to (11) of this rule, each district school board or public charter school governing board with jurisdiction over high school programs shall award a modified diploma to those students who have demonstrated the inability to meet the full set of academic content standards even with reasonable modifications and accommodations and who fulfill all requirements as described in OAR 581-022-1134.

(13) Notwithstanding sections (1) to (11) of this rule, each district school board or public charter school governing board with jurisdiction over high school programs shall award an extended diploma to those students who have demonstrated the inability to meet the full set of academic content standards even with reasonable modifications and accommodations and who fulfill all requirements as described in OAR 581-022-1133.

(14) Notwithstanding sections (1) to (11) of this rule and as provided in OAR 581-022-1135, schools districts and public charter schools shall make an alternative certificate available to students as an alternative for students who do not obtain the regular diploma, modified diploma or extended diploma.

(15) Attendance Requirements:

(a) Twelve school years shall be required beginning with grade 1, except when the school district adopts policies providing for early or delayed completion of all state and school district credit and performance requirements;

(b) Notwithstanding subsection (a) of this section, a student may satisfy the requirements of sections (2)(6) of this rule in less than four years. If the school district or public charter school has the consent of the student's parent or guardian, a school district or public charter school shall award a diploma to a student upon

request from the student, if the student satisfies the requirements for the diploma that apply to the student based on the date of graduation of the student or the school year when the student first enrolled in grade 9, as applicable.

(c) If a school district or public charter school has the consent of a student's parent or guardian, the school district or public charter school may advance the student to the next grade level if the student has satisfied the requirements for the student's current grade level.

(d) The requirement for obtaining the consent of a student's parent or guardian under subsections (b) and (c) of this section does not apply to a student who is:

- (A) Emancipated pursuant to ORS 419B.550 to 419B.558; or
- (B) 18 years of age or older.

(e) The district school board may adopt policies for alternative learning experiences, such as credit by examination and credit for off-campus experiences;

(f) With any modification of the attendance requirements for graduation, school district and public charter school staff shall consider age and maturity of students, access to alternative learning experiences, performance levels, school district or public charter school guidelines and the wishes of parents and guardians.

(16) A school district or public charter school shall ensure that students have access to the appropriate resources to achieve a diploma at each high school in the school district or at the public charter school.

Stat. Auth.: ORS 326.051 & 329.451

Stats. Implemented: ORS 326.051, 329.451 & 339.280

Hist.: EB 2-1997, f. 3-27-97, cert. ef. 9-1-97; ODE 12-2002, f. & cert. ef. 4-15-02; ODE 18-2006, f. 12-11-06, cert. ef. 12-12-06; ODE 18-2007, f. & cert. ef. 9-10-07; ODE 18-2008, f. & cert. ef. 6-27-08; ODE 5-2009(Temp), f. 6-29-09, cert. ef. 6-30-09 thru 12-22-09; ODE 20-2009, f. & cert. ef. 12-10-09; ODE 45-2014, f. & cert. ef. 12-17-14

581-022-1131

Credit Options

(1) A school district or public charter school shall grant required and elective credit towards the diploma or a modified diploma, provided the method for accruing such credit is described in the student's personal education plan and the student earns the credit by meeting the requirements of one or more of the options described in this rule.

(2) A school district or charter school may grant credit to a student if the student demonstrates defined levels of proficiency or mastery of recognized standards (e.g., state academic content standards and essential skills, industry-based or other national or international standards) by any one or more of the following options:

(a) Successfully completing classroom or equivalent work (e.g., supervised independent study, career-related learning experiences, project based learning), which meets Common Curriculum Goals and academic content standards required by OAR 581-022-1210;

(b) Successfully completing classroom or equivalent work designed to measure proficiency or mastery of identified standards (knowledge and skills) in class or out of class, where hours of instruction may vary;

(c) Successfully passing an appropriate exam designed to measure proficiency or mastery of identified standards (knowledge and skills);

(d) Providing a collection of work or other assessment evidence which demonstrates proficiency or mastery of identified standards (knowledge and skills); or

(e) Providing documentation of prior learning activities or experiences which demonstrates proficiency or mastery of identified standards (knowledge and skills) (e.g., certification of training, letters, diplomas, awards, etc.).

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: ODE 4-2003, f. & cert. ef. 3-14-03; ODE 2-2009, f. & cert. ef. 4-23-09; ODE 3-2015, f. 1-30-15, cert. ef. 7-1-15

581-022-1133

Extended Diploma

(1) Definitions.

(a) "Other services" for the purposes of this rule means:

(A) Those services paid for or provided by another agency, such as Vocational Rehabilitation or Brokerages, which may be considered in the calculation of the total number of hours that equals at least the total number of instructional hours that is required to be provided to students who are attending public high school. These "other services" are not to be considered educational services and are not provided by or through the school district or public charter school.

(B) Those services identified in OAR 581-022-1620(4), such as school assemblies, student orientations, testing, etc, which may be considered in the calculation of the total number of hours that equals at least the total number of instructional hours that is required to be provided to students who are attending public high school. These services are provided by the school district or public charter school.

(2) A school district or public charter school shall award an extended diploma to a student who satisfies the requirements of this rule.

(3) A school district or public charter school shall award an extended diploma only to students who have demonstrated the inability to meet the full set of academic content standards for a high school diploma with reasonable modifications and accommodations.

(4) A school district or public charter school may award an extended diploma to a student only upon the consent of the parent or guardian of the student, or upon the consent of the adult student or emancipated minor student. A district or school must receive the consent in writing and during the school year in which the extended diploma is awarded.

(a) If student is under 18, consent must be received from the parent or guardian.

(b) If the student is under age 18 and emancipated, consent must be received from the student.

(c) If the adult student is 18 or older, consent must be received from the student.

(d) If the student is under guardianship from the courts, consent must come from the court-appointed authority.

(5) To be eligible for an extended diploma, a student must:

(a) While in grade nine through completion of high school, complete 12 credits, which may not include more than six credits earned in a self-contained special education classroom and shall include:

- (A) Two credits of mathematics;
- (B) Two credits of English;
- (C) Two credits of Science;
- (D) Three credits of history, geography, economics, or civics;
- (E) One credit of health;
- (F) One Credit of physical education; and
- (G) One credit of arts or a second language; and;
- (b) Have a documented history of:

(A) An inability to maintain grade level achievement due to significant learning and instructional barriers;

(B) A medical condition that creates a barrier to achievement; or

(C) A change in the student's ability to participate in grade level activities as a result of a serious illness or injury that occurred after grade eight.

(6)(a) A student shall have the opportunity to meet the requirements of an extended diploma by the later of:

(A) Four years after starting grade nine; or

(B) The student reaching the age of 21 years, if the student is entitled to a public education until the age of 21 years under state or federal law.

(b) A student may complete the requirements for an extended diploma in less than four years if the parent/guardian or adult student gives consent.

(A) The consent must be written and must clearly state that the parent/guardian or adult student is waiving the 4 years to complete the requirements for an extended diploma.

(B) A copy of all consents must be sent to the district superintendent.

(C) Each school district must annually provide the number of consents obtained to the State Superintendent of Public Instruction

(D) The consent may not be used to allow a student to satisfy the requirements for an extended diploma in less than three years.

(7) A school district or public charter school shall:

(a) Ensure that students have on-site access to the appropriate resources to achieve an extended diploma at each high school in the school district or at the public charter school.

(b) Beginning in grade five or beginning after a documented history described in section (5)(b) above has been established, annually provide to the parents or guardians of a student who has the documented history, described above, information about the availability of an extended diploma and the requirements for the extended diploma.

(c) A school district or public charter school may not deny a student who has the documented history described in subsection (1)(a) of this section the opportunity to pursue a diploma with more stringent requirements than a modified diploma or an extended diploma for the sole reason that the student has the documented history.

(8)(a) A student who receives an extended diploma shall have access to instructional hours, hours of transition services and hours of other services that are designed to meet the unique needs of the student.

(b) When added together, the school district or public charter school will provide a total number of hours of instruction and services to the student that equals at least the total number of instructional hours that is required to be provided to students who are attending a public high school; or,

(c) The total number of hours that are appropriate for a student shall be determined by the individualized education program (IEP) team if the student is eligible for special education;

(d) Based on the student's needs and performance level, the student's IEP team may decide that the student will not access the total number of hours of instruction and services required to be provided to students who are attending a public high school.

(e) The school district or public charter school may not unilaterally decrease the total number of hours of instruction and services to which the student has access regardless of the age of the student.

(f) If a student's IEP team decides that the student will not access the total number of hours of instruction and services to which the student has access, the school district or public charter school shall annually:

(A) Provide the following information in writing to the adult student, parent, or guardian of the student:

(i) The school district's or public charter school's duty to comply with the requirements to provide the total number of hours of instruction and services to the student; and

(ii) The prohibition against a school district's or public charter school's unilaterally decreasing the total number of hours of instruction and services to which the student has access.

(B) Obtain a signed acknowledgment from the adult student, parent or guardian of the student that the adult student, parent or guardian received the information.

(C) Include in the IEP for the student a written statement that explains the reasons the student is not accessing the total number of hours of instruction and services to which the student has access.

(g) Transition services and other services designed to meet the unique needs of the student may be provided to the student through an interagency agreement entered into by the school district if the individualized education program developed for the student indicates that the services may be provided by another agency. The school district or public charter school retains the responsibility for ensuring that the student has access to the number of service hours required to be provided to the student.

(h) An agency is not required to change any eligibility criteria or enrollment standards prior to entering into an interagency agreement with the school district.

(9) School districts and public charter schools shall make extended diplomas as required by ORS 329.451 and this rule first available to students during the 2009-2010 school year.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 329.451

Hist.: ODE 21-2009, f. & cert. ef. 12-10-09; ODE 3-2012, f. 2-1-12, cert. ef. 2-3-12; ODE 44-2014, f. & cert. ef. 12-17-14; ODE 45-2014, f. & cert. ef. 12-17-14; ODE 29-2016, f. & cert. ef. 4-28-16; ODE 43-2016, f. & cert. ef. 9-6-16

581-022-1134

Modified Diploma

(1) Definitions. As used in this rule:

(a) "Documented history" means evidence in the cumulative record and education plans of a student that demonstrates the inability over time to maintain grade level achievement even with appropriate modifications and accommodations.

(b) "Instructional barrier" means a significant physical, cognitive or emotional barrier that impairs a student's ability to maintain grade level achievement.

(c) "Modified course" means a course that has been systematically changed or altered for a student only after reasonable alternative instructional strategies (e.g. accommodations, remediation) are exhausted.

(d) "Other services" for the purposes of this rule means:

(A) Those services paid for or provided by another agency, such as Vocational Rehabilitation or Brokerages, which may be considered in the calculation of the total number of hours that equals at least the total number of instructional hours that is required to be provided to students who are attending public high school. These "other services" are not to be considered educational services and are not provided by or through the school district or public charter school.

(B) Those services identified in OAR 581-022-1620(4), such as school assemblies, student orientations, testing, etc., which may be considered in the calculation of the total number of hours that equals at least the total number of instructional hours that is required to be provided to students who are attending public high school. These services are provided by the school district or public charter school.

(2) On or after July 1, 2009, each district school board or public charter school governing board with jurisdiction over high school programs shall award a modified diploma only to students who have demonstrated the inability to meet the full set of academic content standards for a high school diploma even with reasonable modifications and accommodations but who fulfill all state requirements as described in this rule and all applicable local school district requirements as described in district school board policies or public charter school requirements as described in school policies. In addition, on or after July 1, 2009, a district school board or public charter school governing board may only award a modified diploma to a student who meets the eligibility criteria specified in section 3 of this rule.

(3)(a) Except as provided in paragraph (c) or (d) of this section, a school district or public charter school shall grant eligibility for a modified diploma to a student who has:

(A) A documented history of an inability to maintain grade level achievement due to significant learning and instructional barriers; or

(B) A documented history of a medical condition that creates a barrier to achievement.

(b) A student shall have the opportunity to meet the requirements of a modified diploma by the later of:

(A) Four years after starting grade nine; or

(B) The student reaching the age of 21 years, if the student is entitled to a public education until the age of 21 years under state or federal law.

(c) A student may complete the requirements for a modified diploma in less than four years if the parent/guardian or adult student gives consent.

(A) The consent must be written and must clearly state that the parent/guardian or adult student is waiving the 4 years to complete the requirements for a modified diploma.

(B) A copy of all consents must be sent to the district superintendent.

(C) Each school district must annually provide the number of consents obtained to the State Superintendent of Public Instruction.

(D) The consent may not be used to allow a student to satisfy the requirements for a modified diploma in less than three years.

(d) A school district or public charter school may not deny a student who has the documented history described in paragraph (a) of this subsection the opportunity to pursue a diploma with more stringent requirements than a modified diploma for the sole reason that the student has the documented history.

(e) Students currently engaged in the use of illegal drugs are not eligible for a modified diploma if the significant learning and instructional barriers are due to the use of illegal drugs.

(f) Students currently engaged in the illegal use of alcohol are not eligible for a modified diploma if the significant learning and instructional barriers are due to the alcohol abuse, regardless of whether that student is disabled under Section 504 on the basis of alcoholism.

(g) Notwithstanding paragraph (c) and (d) of this section, a school district or public charter school may grant eligibility for a modified diploma to a student who is no longer engaging in illegal use of drugs or alcohol if the student:

(A) Has successfully completed a supervised drug or alcohol rehabilitation program and are no longer engaged in the illegal use of drugs or alcohol; or

(B) Has been rehabilitated successfully and is no longer engaged in the illegal use of drugs or alcohol; or

(C) Is participating in a supervised rehabilitation program and is no longer engaging in the illegal use of drugs or alcohol.

(4)(a) A school district or public charter school shall determine which school teams shall decide if a student will work toward obtaining a modified diploma. A student's school team must include an adult student, parent/ guardian of the student.

(b) A school district or public charter school may award a modified diploma to a student only upon the consent of the parent or guardian of the student or upon the consent of the adult student or emancipated minor student. A district or school must receive the consent in writing and during the school year in which the modified diploma is awarded.

(A) If student is under 18, consent must be received from the parent or guardian.

(B) If the student is under age 18 and emancipated, consent must be received from the student.

(C) If the adult student is 18 or older, consent must be received from the student or guardian.

(D) If the student is under guardianship from the courts, consent must come from the court-appointed authority.

(c) Except as provided in subsection (e) of this section, a student's school team shall decide that a student should work toward a modified diploma no earlier than the end of the 6th grade and no later than 2 years before the student's anticipated exit from high school.

(d) Beginning in grade five, school district and public charter schools shall annually provide information to the parents or guardians of a student taking an alternate assessment of the availability of a modified diploma and the requirements for the modified diploma.

(e) A student's school team may formally decide to revise a modified diploma decision.

(f) A student's school team may decide that a student who was not previously working towards a modified diploma should work toward a modified diploma when a student is less than 2 years from anticipated exit from high school if the documented history of the student described in section (3) of this rule has changed.

(5) Unit of credit requirements for students graduating with a modified diploma:

(a) To receive a modified diploma a student must earn 24 units of credit, between grade 9 and the end of their high school career with at least 12 of those credits to include:

(A) English Language Arts — 3;

(B) Mathematics — 2;

(C) Science — 2;

(D) Social Sciences (which may include history, civics, geography and economics (including personal finance)) — 2;

(E) Health Education — 1;

(F) Physical Education — 1; and

(G) Career Technical Education, The Arts or World Languages (units may be earned in any one or a combination) — 1.

(b) School districts and public charter schools shall be flexible in awarding the remaining 12 units of credit. These credits must be awarded to meet the needs of the individual student as specified in the education plan of the student with the expectations and standards aligned to the appropriate grade level academic content standards. These credits may include:

(A) Additional core credits described in paragraph (a) of this section;

(B) Professional technical education;

(C) Electives; and

(D) Career development.

(c) Students may earn units of credit through regular education with or without accommodations or modifications and through modified courses.

(d) Students shall have the option to earn credit for demonstrating proficiency. A student may be given credit for successful demonstration of knowledge and skills that meets or exceeds defined levels of performance. Students may demonstrate proficiency through classroom work or documentation of learning experiences outside of school, or through a combination of these means.

(e) School districts and public charter schools shall ensure that students have access to needed courses, modifications and supports to pursue a modified diploma and to progress in the general education curriculum.

(f) A school district or public charter school may not require a student to earn more than 24 units of credit to receive a modified diploma.

(6) A school district or public charter school shall grant credit toward a modified diploma only for courses that contain substantial academic content. A school district or public charter school shall grant credit for a modified diploma through a continuum of instruction beginning at basic skills and progressing through high level skills.

(7) A school district or public charter school shall award a regular diploma under OAR 581-022-1130 if all requirements for a regular diploma are met. Completion of one or more modified courses shall not prohibit a student from earning a regular diploma; however, required core courses taken under modified conditions must be retaken under standard conditions to be counted toward a regular diploma.

(8) A school district or public charter school shall grant credit toward a modified diploma according to individual student needs across academic content areas including applied, consumer, academic, or knowledge and skill development.

(9) Each student shall develop an education plan and build an education profile as provided under OAR 581-022-1130.

(10) A school district or public charter school shall inform the student and parent or guardian of the student if the courses in grades 9-12 have been modified for an individual student.

(11) A school district or public charter school shall provide transcripts which clearly identify modified courses that do not count toward the regular diploma but that do count toward a modified diploma.

(12) Each student shall build a collection of evidence, or include evidence in existing collections, to demonstrate extended application of the standards as defined in OAR 581-022-0102;

(13) Each student receiving a modified diploma shall have the option of participating in the high school graduation ceremony with the members of their class receiving a high school diploma.

(14)(a) A student who receives a modified diploma shall have access to instructional hours, hours of transition services and hours of other services that are designed to meet the unique needs of the student.

(b) When added together, the school district or public charter school will provide a total number of hours of instruction and services to the student that equals at least the total number of instructional hours that is required to be provided to students who are attending a public high school.

(c) The total number of hours that are appropriate for a student shall be determined by the individualized education program (IEP) team if the student is eligible for special education.

(d) Based on the student's needs and performance level, the student's IEP team may decide that the student will not access the total number of hours of instruction and services required to be provided to students who are attending a public high school.

(e) The school district or public charter school may not unilaterally decrease the total number of hours of instruction and services to which the student has access regardless of the age of the student.

(f) If a student's IEP team or school team, decides that the student will not access the total number of hours of instruction and services to which the student has access the school district or public charter school shall annually:

(A) Provide the following information in writing to the adult student, parent or guardian of the student:

(i) The school district's or public charter school's duty to comply with the requirements to provide the total number of hours of instruction and services to the student; and

(ii) The prohibition against a school district's or public charter school's unilaterally decreasing the total number of hours of instruction and services to which the student has access.

(B) Obtain a signed acknowledgment from the adult student, parent or guardian of the student that the adult student, parent or guardian received the information.

(C) Include in the IEP for the student a written statement that explains the reasons the student is not accessing the total number of hours of instruction and services to which the student has access.

(g) Transition services and other services designed to meet the unique needs of the student may be provided to the student through an interagency agreement entered into by the school district if the individualized education program developed for the student indicates that the services may be provided by another agency. The school district or public charter school retains the responsibility for ensuring that the student has access to the number of service hours required to be provided to the student.

(h) An agency is not required to change any eligibility criteria or enrollment standards prior to entering into an interagency agreement with the school district.

(i) School districts and public charter schools shall ensure that students have on-site access to the appropriate resources to achieve a modified diploma at each high school in the school district or at the public charter school.

(15)(a) The unit of credit requirements in section (5) of this rule for a modified diploma apply to all students who enter 9th grade on or after July 1, 2007.

(b) If a student entered 9th grade prior to July 1, 2007, the student's team shall decide whether the student must meet the unit of credit requirements in section (5) of this rule to receive a modified diploma or the unit of credit requirements specified by the school district or public charter school for a modified diploma when the student entered 9th grade. If a student's team decides that a student may receive a modified diploma by meeting the unit of credit requirements required by the district or school when the student entered 9th grade, a school district or public charter school may award a student who entered 9th grade prior to July 1, 2007 a modified diploma if the student meets the unit of credit requirements for a modified diploma specified by the district or school when the student entered 9th grade.

Stat. Auth.: ORS 329.451

Stats. Implemented: ORS 329.451

Hist.: ODE 15-2008, f. & cert. ef. 5-23-08; ODE 22-2009, f. & cert. ef. 12-10-09; ODE 4-2012, f. 2-1-12, cert. ef. 2-3-12; ODE 45-2014, f. & cert. ef. 12-17-14

581-022-1135

Alternative Certificate

(1) Definitions.

(a) "Other services" for the purposes of this rule means:

(A) Those services paid for or provided by another agency, such as Vocational Rehabilitation or Brokerages, which may be considered in the calculation of the total number of hours that equals at least the total number of instructional hours that is required to be provided to students who are attending public high school. These "other services" are not to be considered educational services and are not provided by or through the school district or public charter school.

(B) Those services identified in OAR 581-022-1620(4), such as school assemblies, student orientations, testing, etc., which may be considered in the calculation of the total number of hours that equals at least the total number of instructional hours that is required to be provided to students who are attending public high school. These services are provided by the school district or public charter school.

(2) A School district or public charter school shall award an alternative certificate to a student who does not satisfy the requirements for a high school diploma, a modified diploma or an extended diploma.

(3)(a) Each district school board or public charter school governing board with jurisdiction over high school programs shall define criteria for an alternative certificate and shall award an alternative certificate to those students who have met the criteria requirements as described in district school board policies.

(4) A student shall have the opportunity to meet the requirements of an alternative certificate by the later of:

(a) Four years after starting grade nine; or

(b) The student reaching the age of 21 years, if the student is entitled to a public education until the age of 21 years under state or federal law.

(c) A student may complete the requirements for an alternative certificate in less than four years if the parent/guardian or adult student gives consent.

(A) The consent must be written and must clearly state that the parent/guardian or adult student is waiving the 4 years to complete the requirements for an alternative certificate.

(B) A copy of all consents must be sent to the district superintendent.

(C) Each school district must annually provide the number of consents obtained to the State Superintendent of Public Instruction

(D) The consent may not be used to allow a student to satisfy the requirements for an alternative certificate in less than three years.

(5) A school district or public charter school shall:

(a) Ensure that students have on-site access to the appropriate resources to achieve an alternative certificate at each high school in the school district or at the public charter school.

(b) Beginning grade five, annually provide information to the parents or guardians of a student taking an alternate assessment of the availability of an alternative certificate and the requirements for the certificate.

(6) Each student receiving an alternative certificate shall have the option of participating in the high school graduation ceremony with the members of their class receiving a high school diploma.

(7)(a) A student who receives an alternative certificate shall have access to instructional hours, hours of transition services and hours of other services that are designed to meet the unique needs of the student.

(b) When added together, the school district or public charter school will provide a total number of hours of instruction and services to the student that equals at least the total number of instructional hours that is required to be provided to students who are attending a public high school.

(c) The total number of hours that are appropriate for a student shall be determined by the individualized education program (IEP) team if the student is eligible for special education.

(d) Based on the student's needs and performance level, the student's IEP team may decide that the student will not access the total number of hours of instruction and services required to be provided to students who are attending a public high school.

(e) The school district or public charter school may not unilaterally decrease the total number of hours of instruction and services to which the student has access regardless of the age of the student.

(f) If a student's IEP team, decides that the student will not access the total number of hours of instruction and services to which the student has access the school district or public charter school shall annually:

(A) Provide the following information in writing to the adult student parent or guardian of the student:

(i) The school district's or public charter school's duty to comply with the requirements to provide the total number of hours of instruction and services to the student; and

(ii) The prohibition against a school district's or public charter school's unilaterally decreasing the total number of hours of instruction and services to which the student has access.

(B) Obtain a signed acknowledgment from the adult student, parent or guardian of the student that the adult student, parent or guardian received the information.

(C) Include in the IEP for the student a written statement that explains the reasons the student is not accessing the total number of hours of instruction and services to which the student has access.

(g) Transition services or other services designed to meet the unique needs of the student may be provided to the student through an interagency agreement entered into by the school district if the individualized education program developed for the student indicates that the services may be provided by another agency. The school district or public charter school retains the responsibility for ensuring that the student has access to the number of service hours required to be provided to the student.

(h) An agency is not required to change any eligibility criteria or enrollment standards prior to entering into an interagency agreement with the school district.

Stat. Auth.: ORS 329.451

Stats. Implemented: ORS 329.451

Hist.: ODE 15-2008, f. & cert. ef. 5-23-08; ODE 23-2009, f. & cert. ef. 12-10-09; ODE 5-2012, f. 2-1-12, cert. ef. 2-3-12

581-022-1140

Equal Educational Opportunities

(1) Each district school board shall adopt written policies, and the school district shall implement in each school, programs which assure equity, opportunity and access for all students as provided in OAR 581-021-0045 and 581-021-0046.

(2) Each district school board shall adopt a policy in accordance with ORS 339.356 prohibiting harassment, intimidation or bullying and prohibiting cyberbullying. School districts are encouraged to develop the policy after consultation with parents and guardians, school employees, volunteers, students, administrators and community representatives.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 659.150 & 339.356

Hist.: EB 1-1997, f. & cert. ef. 3-12-97; ODE 25-2008, f. & cert. ef. 9-26-08

581-022-1210

District Curriculum

(1) Each school district shall provide a planned K-12 instructional program.

(2) The planned K-12 instructional program shall include the following:

(a) Common Curriculum Goals and academic content standards to include:

- (A) English;
- (B) Mathematics;
- (C) Science;

(D) Social Science (including history, geography, economics and civics);

(E) The Arts;

(F) World Languages;

(G) Health Education; and

(H) Physical Education.

(b) Additional Common Curriculum Goals for technology.

(c) Essential Learning Skills, as contained in the Common Curriculum Goals and academic content standards;

(d) Career-related learning standards, as contained in the Common Curriculum Goals and academic content standards; and

(e) Career education which may include career and technical education.

(3) The school district shall also provide instruction in other areas identified in chapter 581, division 22 of the Oregon Administrative Rules, including:

(a) Infectious diseases, including AIDS/HIV and Hepatitis B;

(b) Prevention education in drugs and alcohol; and

(c) Emergency plans and safety programs.

(4) The school district is also accountable to provide instruction in compliance with requirements set forth in ORS Chapter 336, Conduct of Schools Generally.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 329.045

Hist.: EB 6-1997, f. & cert. ef. 6-9-97; ODE 7-2005(Temp), f. & cert. ef. 3-15-05 thru 9-1-05; Administrative correction 9-21-05; ODE 5-2006, f. & cert. ef. 2-14-06; ODE 19-2007, f. & cert. ef. 9-10-07; ODE 25-2008, f. & cert. ef. 9-26-08; ODE 45-2014, f. & cert. ef. 12-17-14

581-022-1215

Literacy Instruction

School districts and public charter schools shall provide age appropriate and developmentally appropriate literacy instruction to all students until graduation. For purposes of this rule, a student is considered to be graduated when the student receives a diploma, modified diploma, extended diploma or alternative certificate. A district or school may choose to provide literacy instruction after graduation to students who continue to attend school. The determination to provide literacy instruction after graduation to a student may be made by the student's IEP team or other school team.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 329.451

Hist.: ODE 24-2009, f. & cert. ef. 12-10-09

581-022-1310

Identification of Academically Talented and Intellectually Gifted Students

(1) Each school district shall have local district policies and procedures for the identification of talented and gifted students as defined in ORS 343.395 who demonstrate outstanding ability or potential in one or more of the following areas:

(a) General intellectual ability as commonly measured by measures of intelligence and aptitude.

(b) Unusual academic ability in one or more academic areas.

(2) The policies and procedures must meet the following requirements:

(a) Districts shall use research based best practices to identify students from under-represented populations including: ethnic minorities, students with disabilities, students who are culturally and/or linguistically diverse, or economically disadvantaged.

(b) A team shall make the final decisions on the identification of students using the information collected under paragraphs (c) and (d) of this section. No single test, measure or score shall be the sole criterion. A record of the team's decision, and the data used by the team to make the decision, shall become part of the education record for each student considered.

(c) Districts shall collect behavioral, learning and performance information and include the information in all procedures for the identification of students.

(d) The following measures and criteria for identifying the intellectually gifted and the academically talented shall be used by the team:

(A) Intellectually gifted students shall score at or above the 97th percentile on a nationally standardized test of mental ability; and

(B) Academically talented students shall score at or above the 97th percentile on a test of total reading or a test of total mathematics from a nationally standardized test battery, a nationally standardized test of reading or mathematics, or a test of total English Language Arts/Literacy or total mathematics on the Smarter Balanced Assessment.

(e) Despite a student's failure to qualify under paragraphs (d) (A) and (B) of this subsection, districts, by local policies and procedures, shall identify students who demonstrate the potential to perform at the 97th percentile.

(3) School districts may identify additional students who are talented and gifted as defined in ORS 343.395, as determined by local district policies and procedures, if the students demonstrate outstanding ability or potential in one or more of the following areas:

(a) Creative ability in using original or nontraditional methods in thinking and producing.

(b) Leadership ability in motivating the performance of others either in educational or non-educational settings.

(c) Ability in the visual or performing arts, such as dance, music or art.

Stat. Auth.: ORS 343.391 - 343.413

Stats. Implemented: ORS 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 6-2009, f. & cert. ef. 6-29-09;

ODE 23-2016, f. & cert. ef. 4-7-16

581-022-1320

Rights of Parents of Talented and Gifted Students

In carrying out the requirements of OAR 581-022-1310 and 581-022-1330, the school district shall:

(1) Inform parents at the time of the identification of the child and the programs and services available.

(2) Provide an opportunity for the parents to provide input to and discuss with the district the programs and services to be received by their child.

(3) The parents may, at any time, request the withdrawal of their child from programs and services provided under OAR 581-022-1320. The school district shall notify parents of identified students of this right.

(4) Parents shall be informed of their right to file a complaint under OAR 581-022-1940.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 343.391 - 343.413

Hist.: EB 18-1996, f. & cert. ef. 11-1-96

581-022-1330

Programs and Services for Talented and Gifted Students

(1) Each school district shall have a written plan for programs and services beyond those normally provided by the regular school program in order to realize the contribution of talented and gifted children to self and society.

(2) The written plan for programs and services for talented and gifted children shall be submitted to the Oregon Department of Education on a date and in a format provided in guidance documents provided by the Oregon Department of Education.

(3) The written plan shall include, but is not limited to:

(a) A statement of school district policy on the education of talented and gifted children;

(b) An assessment of current special programs and services provided by the district for talented and gifted children;

(c) A statement of district goals for providing comprehensive special programs and services and over what span of time the goals will be achieved;

(d) A description of the nature of the special programs and services which will be provided to accomplish the goals; and

(e) A plan for evaluating progress on the district plan including each component program and service.

(4) The instruction provided to identified students shall be designed to accommodate their assessed levels of learning and accelerated rates of learning.

(5) Assessments for the development of an appropriate academic instructional program shall include the information used by the team for identification purposes and also may include one or more of the following:

(a) An academic history which may include grades, portfolio assessment records or other progress records and achievement information that demonstrates the student's level of learning and rate of learning;

(b) Other evaluation methods such as formal tests or informal assessment methods designed by teachers to determine the student's instructional level and rate of learning related to specific academic programs;

(c) Student interest, style, and learning preferences information from inventories or interviews; and

(d) Other measures determined by the school district to be relevant to the appropriate academic instructional program for the student.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 343.391 - 343.413

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 6-2009, f. & cert. ef. 6-29-09;

ODE 20-2011, f. & cert. ef. 12-15-11

581-022-1340

Special Education for Children with Disabilities

Each school district shall provide an educational program for all resident children with a disability who are eligible under ORS Chapter 343. The program shall be carried out in accordance with all applicable Oregon Administrative Rules.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 343.041

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 25-2008, f. & cert. ef. 9-26-08

581-022-1350

Alternative Education Programs

(1) Sections (2)–(9) of this rule apply to each public or private alternative education program approved by a school district board on or after July 1, 2007. For the purposes of this rule, the term “program” includes “school.”

(2) In order to provide innovative and more flexible ways of educating children, school districts may establish alternative education options within the public school system.

(3) School districts must adopt policies and procedures for the approval and at least annual evaluation of public and private alternative education programs under ORS 336.615-336.665 (Alternative Education Programs) that receive public funds. Those policies and procedures must provide that:

(a) The district's approval and at least annual evaluation must require that a public alternative program complies with all state statutes, rules and federal law applicable to public schools;

(b) Before contracting with or distributing any public school funds to a private alternative education program, the district must document that:

(A) The program is registered with the Oregon Department of Education (ODE) under the provisions of OAR 581-021-0072 by receiving a copy of the Department's written notice that the program's registration is approved for the current school year;

(B) The ODE has assigned the private alternative program an institution identification number;

(C) Before contracting with or distributing any public school funds to any private alternative education program for special education services identified in a child's IEP, the program is approved by the Department in compliance with OAR 581-015-2270;

(D) The program complies with the individual education plan for each student who is eligible to receive special education services;

(E) An education plan and education profile that meet the requirements of OAR 581-022-1130 are designed and implemented with each student in the program;

(F) The education plan includes criteria for determining if, when, where, and how the student may transition from the alternative program;

(G) A transportation plan is in place ensuring that the program is accessible to each student approved for placement in the program;

(H) The program assists the district in meeting its comprehensive K–12 instructional program in compliance with OAR 581-022-1210;

(I) The program assures that it provides an instruction based on academic content standards adopted by the State Board of Education and that students participate in district and state assessments of achievement for the grade level(s) the program serves;

(J) The program assists students in earning diploma credits consistent with OAR 581-022-1130, 581-022-1134 and 581-022-1135;

(K) The program collects and reports to the district each student's local and state assessment, attendance, behavior, graduation, dropout, and other data required by the district and the state;

(L) Student data is included in the district's at least annual evaluation of the program;

(M) The program complies with federal law; and

(N) If applicable, the private alternative education program is in compliance with its existing district contract.

(4) The contract between a school district and a private alternative education program must state that non-compliance with a rule or statute under this rule (OAR 581-022-1350) will result in the termination of the contract, and suspension or revocation of registration by the Department will terminate the district's contract with the private alternative program and that the private alternative education program's annual statement of expenditures is reviewed in the districts' evaluation in accordance with ORS 336.635(2).

(5) School districts shall adopt policies and procedures to approve placing students in district approved public alternative education programs and district approved private alternative education programs. Such policies and procedures must ensure that:

(a) Students placed in alternative education programs are those whose educational needs and interests are best served by participation in such programs and will include:

(A) Students identified pursuant to ORS 339.250:

(i) Who are being considered for suspension or expulsion pursuant to ORS 339.250;

(ii) Who have been suspended or expelled pursuant to ORS 339.250;

(iii) Whose attendance patterns have been found to be so erratic that the students are not benefiting from the regular educational program; or

(iv) Who have had a second or subsequent occurrence within any three-year period of a severe disciplinary problem;

(B) Students identified pursuant to ORS 329.485 and OAR 581-022-1110(5) who do not meet the standards or who exceed all of the standards at any benchmark level;

(C) Students admitted to the district pursuant to ORS 339.115 who have not yet turned 21 prior to the start of the school year and who need additional instruction to earn a diploma in compliance with OAR 581-022-1130;

(D) Students whose parents or legal guardians apply for the student's exemption from compulsory attendance on a semiannual basis as provided in ORS 339.030 and OAR 581-021-0076; and

(E) Others who are individually approved for placement consistent with the district's board policies regarding the placement;

(b) Placement of a student in a public or private alternative education program may be made only if:

(A) The student is a resident of the district and the district has legal responsibility for the student's education consistent with ORS 327.006(7);

(B) After assessing the student's needs and interests and consulting with the parent or guardian, the district determines that the student is not benefiting, has not benefited, or will not benefit from attendance in other district schools or programs;

(C) The alternative program is determined by the district to best serve the student within local and state academic standards; and

(D) Placement in the program is made consistent with the student's education plan pursuant to OAR 581-022-1120(3)(a) and (b) and 581-022-1130(3) and with district policies and procedures;

(c) Placement in a public or private alternative education program must be made with the approval of the student's resident school district and attending school district; and

(d) Payment to private alternative education providers must be the actual cost of the program or an amount at least equivalent to 80 percent of the district's estimated current year's average per student net operating expenditure, whichever is less.

(6) A school district must adopt policies and procedures for notification of students, parents or guardians of students of:

(a) The law regarding alternative education programs;

(b) The availability of existing alternative education programs; and

(c) The procedures for students, parents, or guardians of students residing in the district to request the establishment of new alternative education programs.

(7) School districts must include opportunities for participation by educators, community members, and parents or guardians in the development of policies and procedures under this rule.

(8) School districts must have policies and procedures in place to ensure that, for the purposes of making claims for state school funds;

(a) Students 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 are individually placed by the school district in an alternative education programs are accounted consistent with 581-023-0006(7);

(b) Students supplementing home or private schooling by attending part-time and receiving less than comprehensive education from the district are accounted consistent with OAR 581-023-0006(6)(a);

(c) Students receiving online instruction are accounted consistent with reporting guidelines published in the Oregon Student Personnel Accounting Manual, and

(d) Activities claimed for state school funds and credits awarded in the alternative education program consistent with OAR 581-023-0008 are approved by the district and by the contract between a private alternative program and the district.

(9) School districts must have policies and procedures in place to ensure that data for each student in public and private alternative education programs are included in district reporting as required by ODE.

Stat. Auth.: ORS 326.051, 327.125, 336.625 & 336.645

Stats. Implemented: ORS 327.006, 329.485, 336.615 - 336.665, 329.485, 339.115, 339.030 & 339.250

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 2-1998, f. & cert. ef. 2-27-98; ODE 4-2003, f. & cert. ef. 3-14-03; ODE 12-2007, f. & cert. ef. 4-25-07; ODE 20-2007, f. & cert. ef. 9-10-07; ODE 25-2008, f. & cert. ef. 9-26-08

581-022-1362

Expanded Options — Purpose

The purpose of the program created by ORS Chapter 340 otherwise known as Expanded Options is to:

(1) Create a seamless education system for students enrolled in grades 11 and 12 to:

(a) Have additional options to continue or complete their education;

(b) Earn concurrent high school and college credits; and

(c) Gain early entry into post-secondary education.

(2) Promote and support existing accelerated college credit programs, and support the development of new programs that are unique to a community's secondary and postsecondary relationships and resources.

(3) Allow eligible students who participate in the Expanded Options Program to enroll full-time or part-time in an eligible post-secondary institution.

(4) Provide public funding to the eligible post-secondary institutions for educational services to eligible students to offset the cost of tuition, fees, textbooks, equipment and materials for students who participate in the Expanded Options Program.

Stat. Auth.: ORS 340.574

Stats. Implemented: ORS 340.574

Hist.: ODE 12-2006, f. & cert. ef. 5-24-06; ODE 25-2007, f. & cert. ef. 10-26-07

581-022-1363

Expanded Options — Definitions

Definitions to be used in carrying out the components of OAR 581-022-1362 through 581-022-1372:

(1) “Expanded Options Program” means The program created in ORS Chapter 340.

(2) “Accelerated college credit program” means a program, agreement or plan that is intended to provide access for public high school students to a post-secondary course, including, but not limited to:

(a) Dual credit technical preparation programs, such as two-plus-two;

(b) Advanced placement; and

(c) International Baccalaureate.

(3) “Adverse Financial Impact” means a decline in financial resources that would substantially impact the educational program the district offers to all students.

(4) “At-risk student” means:

(a) A student who qualifies for a free or reduced lunch program; or

(b) A student who meets state or federal thresholds for poverty as indicated by eligibility for services under any or all of the following title sections of the No Child Left Behind Act of 2001; PL 107-110:

(A) Title IA Improving Academic Achievement of the Disadvantaged;

(B) Title IC Education of Migratory Children;

(C) Title ID Prevention and Intervention Programs for Children and Youth Who are Neglected, Delinquent, or At-Risk;

(D) Title III Language Instruction of Limited English Proficient and Immigrant Students;

(E) Title X Education of Homeless Children and Youth Program.

(5) “Duplicate course” means a course with a scope that is identical to the scope of another course.

(6) “Eligible post-secondary course” means

(a) Any nonsectarian course or program offered through an eligible post-secondary institution if the course or program may lead to high school completion, a certificate, professional certification, associate degree or baccalaureate degree.

(b) “Eligible post-secondary course” does not include a duplicate course offered at the student’s resident school.

(c) “Eligible post-secondary course” includes:

(A) Academic and professional technical courses; and

(B) Distance education courses.

(d) The provisions of Section 5 “Eligible post secondary course”, subsections (a) through (c), do not apply to any post-secondary courses in which a student is enrolled in addition to being enrolled full-time in the student’s resident school district. For purposes of the Expanded Options Program, a student is considered full-time if the student attends classes for credit in the secondary school for all available hours of instruction.

(7) “Eligible post-secondary institution” means:

(a) A community college;

(b) Institutions in the Oregon University System (University of Oregon, Oregon State University, Portland State University, Oregon Institute of Technology, Western Oregon University, Southern Oregon University, Eastern Oregon University); and

(c) The Oregon Health and Sciences University.

(8) “Eligible student” means

(a) A student who is enrolled in an Oregon public school and who:

(A) Is 16 years of age or older at the time of enrollment in a course under the Expanded Options Program, and;

(B) Is in grade 11 or 12, or

(i) Is not in grade 11 or 12, because the student has not completed the required number of credits, but who has been allowed by the school district to participate in the program; and

(C) Has developed an educational learning plan consistent with OAR 581-022-1130(3), Diploma Requirements; and

(D) Has not successfully completed the requirements for a high school diploma as established by ORS 329.451, the State Board of Education, and the local school district board.

(b) “Eligible student” does not include a foreign exchange student enrolled in a school under a cultural exchange program.

(9) “Good Faith Negotiations” refers to the manner in which the parties meet and carry on business at reasonable times with willingness to reach agreement through conference, discussion, and compromise.

(10) “Individualized education program” means a written statement of an educational program for a child with a disability as described in OAR 581-015-0068, Special Education — Content of IEP.

(11) “Related Services” includes transportation and such developmental, corrective and other supportive services as are required to assist a student with a disability to benefit from special education and is consistent with OAR 581-015-0005, Special Education — Definitions.

(12) “Scope” means depth and breadth of course content as evidenced through a planned course statement including content outline, applicable state content standards where appropriate, course goals and student outcomes.

(13) “Special Education” means specially designed instruction consistent with OAR 581-015-0005, Special Education — Definitions, to meet the unique needs of a student with a disability by adapting, as appropriate, the content, methodology, or delivery of instruction to address the unique needs of the student that result from the student’s disability and to ensure access of the student to the general curriculum.

Stat. Auth.: ORS 340.574

Stats. Implemented: ORS 340.574

Hist.: ODE 12-2006, f. & cert. ef. 5-24-06; ODE 25-2007, f. & cert. ef. 10-26-07

581-022-1364

Expanded Options — Requirements for Oregon Public School Districts

Each school district shall:

(1) Prior to February 15 of each year, notify all high school students and the students’ parents or guardians of the Expanded Options Program as described in OAR 581-022-1365, Expanded Options - Annual Notice, for the following school year.

(2) Establish a process to identify dropouts as described in OAR 581-022-1365, Expanded Options — Annual Notice.

(3) Include in the enrollment materials for all students transferring into the district from another district, and for all students returning to high school after dropping out, notification to the student and student’s parent or guardian of the Expanded Options Program as described in OAR 581-022-1365, Expanded Options — Annual Notice, if said students enroll in a district school after the district has issued its annual program notice.

(4) Notify a high school student who has officially expressed an intent to participate in the Expanded Options Program, and the student’s parent or guardian, of the student’s eligibility status within 20 business days after the student as officially expressed intent.

(5) Negotiate in good faith a financial agreement with any eligible post-secondary institution consistent with OAR 581-022-1368 State School Fund, Expenditures, Good Faith Negotiations.

(6) Enter into an agreement with an eligible post-secondary institution that accepts a student for enrollment in an eligible post-secondary course that is a non-tuition course or noncredit course pursuant to ORS 640.030 for the payment of the actual associated instructional costs.

(7) Review with the student and the student’s parent or guardian the student’s current status toward meeting all state and school district graduation requirements and the applicability of the proposed eligible post-secondary course with respect to fulfilling the student’s remaining graduation requirements.

(8) Establish a process adopted by the local school district board to determine duplicate course status consistent with 581-022-1363, Definitions.

(a) A school district shall notify an eligible student and the student's parent or guardian of any course the student wishes to take that the district determines is a duplicate course, within 20 business days after the student has submitted a list of intended courses.

(b) A student may appeal a duplicate course determination to the school district board based on evidence of the scope of the course.

(c) The school district board or the board's designee shall issue a decision on the appeal within 30 business days of receipt of the appeal.

(9) Prior to an eligible student's beginning an eligible post-secondary course, notify the student of the number and type of credits the student will be granted upon successful completion of the course.

(a) School district boards shall have policies and procedures to award diploma credits to eligible students for eligible post-secondary courses completed under the Expanded Options Program. Those policies and procedures shall be consistent with OAR 581-022-1131, Credit Options.

(10) Establish an appeals process adopted by the local school district board to resolve disputes by the eligible students regarding number or type of credits the school district will grant or has granted for a particular eligible post-secondary course. The appeals process adopted by the school district board shall be consistent with OAR 581-022-1940, Appeals and Complaints.

(11) Be responsible for providing any special education and related services to participating students following state and federal law, and consistent with OAR 581-015-0005, Special Education.

(a) The resident school district of an eligible student participating in the Expanded Options Program shall be responsible for providing any required special education and related services to the student.

(b) A student who requires special education and related services shall be considered, for school purposes, a resident in the school district pursuant to ORS 339.133 and 339.134.

(12) Each school year, award no more than 330 quarter credit hours to eligible students per enrollment of 1,000 students or proportional credit hours as established in OAR 581-022-1366, Annual Credit Hour Cap; or elect to exceed this quarter hour cap following the stipulations indicated in 581-022-1366, Annual Credit Hour Cap.

(13) Apply credits granted to an eligible student to be counted toward high school graduation requirements and subject area requirements of the state and local school district consistent with OAR 581-022-1130, Diploma Requirements.

(14) Include in the student's education record evidence of successful completion of each eligible post-secondary course and credits granted.

(15) Include in the student's education record that the credits were earned at an eligible post-secondary institution.

(16) Provide the following data to the Department of Education on an annual basis in the format and timeline as determined by the Department of Education:

(a) Types of accelerated college credit programs offered;

(b) Number of high school credits earned under the Expanded Options Program;

(c) Number of college credits earned under the Expanded Options Program;

(d) Estimated college tuition cost savings for participating students;

(e) Number of students who had dropped out of high school but returned to high school to participate in the Expanded Options Program and earned a diploma;

(f) Number of participating students categorized by ethnicity and financial status;

(g) Number of participating talented and gifted students;

(h) Rural school district designation;

(i) If the individual district is classified as a small school district, the number of eligible students who wish to participate than are allowed under the respective credit hour caps established in OAR 581-022-1366, Annual Credit Hour Cap. Each school district may.

(17) Provide transportation services to eligible students who attend eligible post-secondary institutions within the boundaries of which the school district is a component school district.

(a) Any transportation costs incurred by a school district under this section shall be considered approved transportation costs for purposes of ORS 327.013(9).

(18) Appeal to the Department of Education for determination of good faith negotiations as described in 581-022-1368 State School Fund, Expenditures, Good Faith Negotiations.

(19) Request a waiver from the Department of Education of the requirements of participation in the Expanded Options Program created in ORS Chapter 340 if the school district meets the conditions as described in 581-022-1372, Request for Program Waiver.

Stat. Auth.: ORS 340.574

Stats. Implemented: ORS 340.574

Hist.: ODE 12-2006, f. & cert. ef. 5-24-06; ODE 25-2007, f. & cert. ef. 10-26-07

581-022-1365

Expanded Options — Annual Notice

(1) Prior to February 15 of each year, beginning with the 2005-06 school year, each school district must notify all high school students and the students' parents or guardians of the Expanded Options Program for the following school year. The notification process must:

(a) Ensure that all at-risk students and their parents are notified about the Expanded Options Program; and

(b) Identify high school students who have dropped out of school and provide those students with information about the Expanded Options Program by sending information about the program to the last known address of the family of the student. It shall be a priority for school districts to provide information about the Expanded Options Program to high school students who have dropped out of school.

(2) The notice must include, but is not be limited to, the following:

(a) Definitions of "eligible student," "eligible post-secondary institution," and "eligible post-secondary course;"

(b) Purposes of the Expanded Options Program;

(c) Financial arrangements for tuition, textbooks, equipment and materials;

(d) Available transportation services;

(e) Effects of enrolling in the Expanded Options Program on the eligible student's ability to complete the required high school graduation requirements;

(f) Consequences of not maintaining satisfactory academic progress as defined by the eligible post-secondary institution, such as by failing or not completing an eligible post-secondary course;

(g) Participation in the Expanded Options Program is contingent on acceptance by an eligible post-secondary institution;

(h) School district timelines affecting student eligibility and duplicate course determinations consistent with ORS 340.015, 340.025, and 340.030.

(i) Eligible students may not enroll in eligible post-secondary courses for more than the equivalent of two academic years, and eligible students who first enroll in grade 12 may not enroll in eligible post-secondary courses for more than the equivalent of one academic year;

(j) A student who has graduated from high school may not participate in the Expanded Options Program;

(k) Notice(s) of any other program(s), agreement(s) or plan(s) in effect that provide access for public high school students to post-secondary courses;

(l) The district's responsibility for providing any required special education and related services to the student;

(m) The number of quarter credit hours that may be awarded each school year to eligible students by the resident high school;

(n) The district board's process for selecting eligible students to participate in the Expanded Options Program if the school district has not chosen to exceed the credit hour cap and has more eligible students who wish to participate than are allowed by the cap;

(o) Information about program participation priority for at-risk students;

(p) Exclusion of duplicate courses as determined by the resident school district;

(q) The process for a student to appeal the district's duplicate course determination to the local school district board, and if the local appeal is denied, to the Superintendent of Public Instruction or the Superintendent's designee;

(r) Exclusion of post-secondary courses in which a student is enrolled if the student is also enrolled full time in the resident secondary school; and

(s) Exclusion of foreign exchange students enrolled in a school under a cultural exchange program.

Stat. Auth.: ORS 340.574

Stats. Implemented: ORS 340.574

Hist.: ODE 12-2006, f. & cert. ef. 5-24-06; ODE 25-2007, f. & cert. ef. 10-26-07

581-022-1366

Expanded Options — Annual Credit Hour Cap

(1) The number of quarter credit hours that may be awarded by a high school under the Expanded Options Program is limited to an amount equal to the number of students in grades 9 through 12 enrolled in the high school multiplied by a factor of 0.33. For example, the cap for a high school with 450 students in grades 9 through 12 would be 148.5 ($450 \times 0.33 = 148.5$).

(2) For districts with more than one high school, the caps must be established separately for each high school.

(3) School districts may choose to exceed both the individual high school level cap(s) and the aggregate district level cap established under this rule.

(4) School districts choosing not to exceed the cap(s) established under this rule are required to establish a process for selecting eligible students for participation in the program. The process must give priority for participation to students who are "at risk" as defined in OAR 581-022-1363 Expanded Options — Definitions.

Stat. Auth.: ORS 340.574

Stats. Implemented: ORS 340.574

Hist.: ODE 12-2006, f. & cert. ef. 5-24-06; ODE 25-2007, f. & cert. ef. 10-26-07

581-022-1367

Expanded Options — Responsibilities of Eligible Students

Each eligible student shall:

(1) Maintain satisfactory academic progress as defined by the eligible post-secondary institution.

(2) By May 15 of each year, notify the resident school district of intent to enroll in eligible post-secondary courses during the following school year.

(a) If a student is an incoming transfer student or returning dropout, notify the school district of interest in Expanded Options Program participation within 20 business days of enrollment.

(3) In cooperation with an advisory support team (may include the student, student's parent or guardian and a teacher or a counselor), develop an educational learning plan consistent with OAR 581-022-1130, Section (3) Diploma Requirements, which may include:

(a) Short-term and long-term learning goals and proposed activities,

(b) Relationship of the eligible post-secondary courses proposed under the Expanded Options Program and the student's learning goals.

(4) Acknowledge that participation in the Expanded Options Program is contingent on acceptance by an eligible post-secondary institution.

(5) Provide the school district with authorization to obtain a copy of grades in from each post-secondary institution for each eligible post-secondary course taken for credit or non credit that may lead to high school completion, a certificate, professional certification, associate degree or baccalaureate degree under the Expanded Options Program.

(6) Acknowledge that all textbooks, fees, equipment and materials provided and paid for under Expanded Options Program are the property of the resident school district.

(7) Be ineligible for any state student financial aid under ORS 348.040 to 348.280 and 348.505 to 348.695.

(8) Not enroll for more than the equivalent of two academic years.

(a) If first enrolled in grade 12, may not enroll in post-secondary courses for more than the equivalent of one academic year.

(b) If first enrolled in the middle of the school year, the time of participation shall be reduced proportionately.

(c) If enrolled in a year-round program and begins each grade in the summer session, summer sessions are not counted against the time of participation. Each eligible student may:

(9) Apply to an eligible post-secondary institution to enroll in eligible post-secondary courses offered by the eligible post-secondary institution.

(10) Apply to the resident school district for reimbursement for any textbooks, fees, equipment or materials purchased by the student that are required for an eligible post-secondary course.

(11) Appeal to the local school board a duplicate course designation and, if said appeal is denied, appeal to the Superintendent of Public Instruction or the superintendent's designee a duplicate course designation by the resident school district.

(a) The school district board or the board's designee shall issue a decision on the appeal within 30 business days of receipt of the appeal.

(b) The superintendent or the superintendent's designee shall issue a decision on the appeal within 30 business days of receipt of the appeal.

(c) If the superintendent or the superintendent's designee fails to issue a decision within 30 days of receipt of the appeal, the course shall be deemed to not be a duplicate course.

(A) The student may then enroll in the course under the Expanded Options Program, if the course and the student meet all other eligibility requirements.

Stat. Auth.: ORS 340.574

Stats. Implemented: ORS 340.574

Hist.: ODE 12-2006, f. & cert. ef. 5-24-06; ODE 25-2007, f. & cert. ef. 10-26-07

581-022-1368

Expanded Options — State School Fund, Expenditures, Request for Waiver

(1) An eligible student enrolled in an eligible post-secondary course at an eligible post-secondary institution shall continue to be considered a resident pupil of the student's school district for purposes of calculation of the State School Fund grant under ORS 327.006 to 327.133 and 327.731.

(2) The amount of each school district's general purpose grant per extended ADMw as calculated under ORS 327.013 shall be determined each fiscal year by the Department of Education and made available to all school districts and, upon request, to any eligible post-secondary institution.

(3) A school district shall negotiate in good faith a financial agreement with any eligible post-secondary institution that accepts a student for enrollment in an eligible post-secondary course for the payment of actual instructional costs associated with the enrollment of the eligible student in eligible post-secondary courses, including tuition, fees, textbooks, equipment, and materials.

(a) As a part of the negotiated financial agreement, an eligible post-secondary institution shall provide the school district with the published refund policy for eligible students who do not complete

eligible post-secondary courses in which the students enroll and do not earn credit.

(b) If after participating in good faith negotiations, a school district and an eligible post-secondary institution are unable to agree on the payment of actual instructional costs as described in Section (3), either entity may appeal to the Department of Education for a determination of whether the negotiations were conducted in good faith.

(4) The department shall develop a process and criteria to use for appeal.

(a) If the department determines that the negotiations were not conducted in good faith by either the school district or the eligible post-secondary institution, the department shall order the school district and the eligible post-secondary institution to conduct the negotiations again.

(b) If the department determines that the negotiations were conducted in good faith by the school district and the eligible post-secondary institution, the department shall grant the school district a waiver consistent with OAR 581-022-1372 Request for Program Waiver from participating in the Expanded Options Program with the eligible post-secondary institution with which the school district was negotiating.

(c) The decision of the department shall be binding on the school district and the eligible post-secondary institution.

(5) In addition to any good faith financial agreement entered into under Section (3), the resident school district of the eligible student shall enter into an agreement with an eligible post-secondary institution that accepts a student for enrollment in an eligible post-secondary course that is a non-tuition course or noncredit course for the payment of the actual instructional costs associated with the student's attending the eligible post-secondary course at the institution.

(6) Nothing in this section shall prohibit an eligible post-secondary institution from receiving additional state funding that may be available under any other law.

Stat. Auth.: ORS 340.574

Stats. Implemented: ORS 340.574

Hist.: ODE 12-2006, f. & cert. ef. 5-24-06; ODE 25-2007, f. & cert. ef. 10-26-07

581-022-1370

Expanded Options — Alternative Programs

(1) Notwithstanding ORS Chapter 340, any program, agreement or plan in effect on January 1, 2006, that provides access for public high school students to a post-secondary course is not affected by this chapter and may be continued or renewed at the discretion of the parties to the program, agreement or plan.

(2) Any new program, agreement or plan that is developed after January 1, 2006, and that is intended to provide access for public high school students to a post-secondary course may be initiated at the discretion of a school district and a post-secondary institution.

Stat. Auth.: ORS 340.574

Stats. Implemented: ORS 340.574

Hist.: ODE 12-2006, f. & cert. ef. 5-24-06; ODE 25-2007, f. & cert. ef. 10-26-07

581-022-1371

Expanded Options — Charter School Participation

(1) A public charter school may elect to participate in the Expanded Options Program by amending its charter under ORS 338.065.

(2) Actual instructional costs associated with participating eligible students shall be negotiated and paid directly to the eligible post-secondary institution by the public charter school.

(3) The participating public charter school may not require funding from the sponsor of the school for payment of Expanded Options Program costs that is in addition to funding that has already been contractually established pursuant to ORS 338.155(2)(b) or (3)(b) or 338.165(3)(b).

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 340.005 - 340.090

Hist.: ODE 25-2007, f. & cert. ef. 10-26-07

581-022-1372

Expanded Options — Request for Program Waiver

(1) A school district may request a waiver from the Department of Education of the requirements of participation in the Expanded Options Program as established in ORS Chapter 340. The department shall grant the waiver if:

(a) Compliance with the requirements of the Expanded Options Program would adversely impact the finances of the school district; or

(b) The school district offers dual credit technical preparation programs, such as two-plus-two programs, advanced placement or International Baccalaureate programs and other accelerated college credit programs.

(2) The duration of a waiver granted based on Subsection (1)(a) shall be no more than two school years.

(3) The duration of a waiver granted under Subsection (1)(b) shall be the length of the program that was the basis for the waiver.

(4) There is no limit on the number of times a school district may apply for and be granted a waiver under this section.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 340.005 - 340.090

Hist.: ODE 25-2007, f. & cert. ef. 10-26-07

581-022-1420

Emergency Plans and Safety Programs

The school district shall maintain a comprehensive safety program for all employees and students which shall:

(1) Include plans for responding to emergency situations.

(2) Specify general safety and accident prevention procedures with specific instruction for each type of classroom and laboratory.

(3) Provide instruction in basic emergency procedures for each laboratory, shop and studio, including identification of common physical, chemical, and electrical hazards.

(4) Require necessary safety devices and instruction for their use.

(5) Require that an accident prevention in service program for all employees be conducted periodically and documented.

(6) Provide assurance that each student has received appropriate safety instruction.

(7) Provide for regularly scheduled and documented safety inspections which will assure that facilities and programs are maintained and operated in a manner which protects the safety of all students and employees.

(8) Require reports of accidents involving school district property, or involving employees, students or visiting public, as well as prompt investigation of all accidents, application of appropriate corrective measures, and monthly and annual analyses of accident data and trends.

(9) In schools operated by the district that are occupied by students, the district must ensure that all students are instructed and have drills on emergency procedures in compliance with ORS 336.071. The emergency procedures shall include drills and instruction on:

(a) Fires;

(b) Earthquakes, which shall include tsunami drills and instruction in schools in a tsunami hazard zone; and

(c) Safety threats including procedures related to lockdown, lockout, shelter in place and evacuation and other appropriate actions to take when there is a threat to safety.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 336.071

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 28-2015, f. & cert. ef. 12-22-15

581-022-1430

Asbestos Management Plans

(1) The statutory authority for this rule is the Asbestos Hazard Emergency Response Act of 1986 as amended by Public Law 100.368 and subsequent rule published in the Friday, October 30, 1987, Federal Register (40 CFR Part 763).

(2) Any public and private school that acquires or leases a school building after October 12, 1988 shall submit an Asbestos Management Plan to the Department of Education prior to occupancy.

(3) The Management Plan shall include all the elements contained in 40 CFR §763.93(e).

(4) General local education agency responsibilities (as stated in 40 CFR §763.84). Each local education agency shall:

(a) Ensure that the activities of any persons who perform inspections, reinspections, and periodic surveillance, develop and update management plans, and develop and implement response actions, including operations and maintenance, are carried out in accordance with Subpart E (40 CFR 763);

(b) Ensure that all custodial and maintenance employees are properly trained as required by Subpart E (40 CFR 763) and other applicable federal and/or state regulations (e.g., the Occupational Safety and Health Administration asbestos standard for construction, the EPA worker protection rule);

(c) Ensure that workers and building occupants, or their legal guardians, are informed at least once each school year about inspections, response actions, and post-response action activities, including periodic reinspection and surveillance activities that are planned or in progress; or

(d) Ensure that short-term workers (e.g., telephone repair workers, utility workers, or exterminators) who may come in contact with asbestos in a school are provided information regarding the locations of Asbestos Containing Building Material (ACBM) and suspected ACBM assumed to be Asbestos Containing Material (ACM);

(e) Ensure that warning labels are posted in accordance with §763.95;

(f) Ensure that management plans are available for inspection and notification of such availability has been provided as specified in the management plan under §763.93(g);

(g)(A) Designate a person to ensure that requirements of this section are properly implemented; and

(B) Ensure that the designated person receives adequate training to perform duties assigned under this section. Such training shall provide, as necessary, basic knowledge of:

- (i) Health effects of asbestos;
- (ii) Detection, identification, and assessment of ACM;
- (iii) Options of controlling ACBM;
- (iv) Asbestos management programs;

(v) Relevant federal and state regulations concerning asbestos, including those in Subpart E (40 CFR 763) and those of the Occupational Safety and Health Administration, U. S. Department of Labor, the U. S. Department of Transportation and the U. S. Environmental Protection Agency.

(h) Consider whether any conflict of interest may arise from the interrelationships among accredited personnel and whether that should influence the selection of accredited personnel to perform activities under this subpart.

Stat. Auth.: ORS 363 & PL 100.368
 Stats. Implemented: 40 CFR Part 763
 Hist.: EB 18-1996, f. & cert. ef. 11-1-96

581-022-1440

Human Sexuality Education

(1) The following definitions apply to Oregon Administrative Rule 581-022-1440:

(a) “Age-appropriate” means curricula designed to teach concepts, information, and skills based on the social, cognitive, emotional, experience and developmental level of students;

(b) “Balanced” means instruction that provides information with the understanding of, and strength of the preponderance of evidence;

(c) “Best practice” means a practice/curriculum that is based in proven theory and practices, and has some evidence of effectiveness, but has not specifically gone through a randomized controlled trial that is needed to become an evidence-based practice;

(d) “Comprehensive plan of instruction” (as defined by Oregon education statutes) means k–12 programs that emphasize abstinence, but not to the exclusion of condom and contraceptive skills-based education. The human sexuality information provided is complete, balanced, and medically accurate. Opportunities are provided for young people to develop and understand their values,

attitudes, beliefs and decisions about sexuality as a means of helping young people exercise responsibility regarding sexual relationships and sexual health decisions as further defined by subsections (2) and (3);

(e) “Consensual” means the presence of a “yes” when “no” is a viable option;

(f) “Culturally inclusive” means using materials and instruction strategies that respond to culturally diverse individuals, families, and communities in a respectful and effective manner;

(g) “Gender expression” means how people express their gender based on mannerisms, dress, etc. A person’s gender expression/presentation may not always match their gender identity;

(h) “Gender identity” means a person’s internal sense of being male, female or some other gender, regardless of whether the individual’s appearance, expression or behavior differs from that traditionally associated with the individual’s sex assigned at birth;

(i) “Gender role” means the socially determined sets of behaviors assigned to people based on their biological sex;

(j) “Gender sensitive” means using materials and instruction strategies that are sensitive to individual’s similarities and differences regarding gender role, gender identity and/or sexual orientation;

(k) “Healthy relationship” means one in which both people feel a healthy sense of “self”. Each person feels comfortable and safe when spending time with the other person. Two individuals try to meet each other’s needs, and each can ask for help and support, within and outside of the relationship without fear of criticism or harm;

(l) “Medically accurate” means information that is established through the use of the ‘scientific method.’ Results can be measured, quantified, and replicated to confirm accuracy, and are reported or recognized in peer-reviewed journals or other authoritative publications;

(m) “Non-consensual sexual behavior” means any sexual act that is inflicted upon a person who is unable to grant consent or that is unwanted and compelled through the use of physical force, manipulation, threats, or intimidation;

(n) “Research-based” means intervention is based on theoretical approaches that have been shown through scientific evaluation to be effective in achieving the intended outcomes. Evaluation based on studies using scientifically based designs; results published in recognized, peer-reviewed journals;

(o) “Sexual intercourse” means a type of sexual contact or activity involving one of the following:

- (A) Vaginal sex;
- (B) Oral sex; or
- (C) Anal sex;

(p) “Sexual orientation” means an individual’s actual or perceived heterosexuality, homosexuality, bisexuality or other romantic and/or sexual attraction;

(q) “Shame or fear based” means terminology, activities, scenarios, context, language, and/or visual illustrations that are used to devalue, ignore, and/or disgrace students who have had or are having sexual relationships. Not all curricula or activities that describe risks of sexual activities can be considered “fear-based;”

(r) “Skills-based” means instructional strategy that has students practice the desired skill; and

(s) “Student bystander behavior” means behaviors in which students who witness or learn about a peer’s harmful behaviors or attitudes intervene when it is safe to do so.

(2) Each school district shall provide an age-appropriate, comprehensive plan of instruction focusing on human sexuality education, HIV/AIDS and sexually transmitted infections and disease prevention in elementary and secondary schools as an integral part of health education and other subjects. Course material and instruction for all human sexuality education courses that discuss human sexuality in public elementary and secondary schools shall enhance students’ understanding of sexuality as a normal and healthy aspect of human development. As part of the comprehensive plan of human sexuality instruction, each school district board shall adopt a child sexual abuse prevention instructional program for students in kindergarten through grade 12 as defined in

subsection (9). In addition, the HIV/AIDS and sexually transmitted infections and disease prevention education and the human sexuality education comprehensive plan shall provide adequate instruction at least annually, for all students' grades 6-8 and at least twice during grades 9-12.

(3) Parents, teachers, school administrators, local health department staff, other community representatives, and persons from the medical community who are knowledgeable of the latest scientific information and effective education strategies shall develop the plan of instruction required by this rule, and in alignment with the Oregon Health Education Standards and Benchmarks, cooperatively.

(4) Local school boards shall approve the plan of instruction and require that it be reviewed and updated biennially in accordance with new scientific information and effective education strategies.

(5) Any parent may request that his/her child be excused from that portion of the instructional program required by this rule under the procedures set forth in ORS 336.035(2).

(6) The comprehensive plan of instruction shall include information that:

(a) Promotes abstinence for school-age youth and mutually monogamous relationships with an uninfected partner for adults as the safest and mostly responsible sexual behavior to reduce the risk of unintended pregnancy and exposure to HIV, Hepatitis B/C and other sexually transmitted infectious diseases;

(b) Allays those fears concerning HIV that are scientifically groundless;

(c) Is balanced and medically accurate;

(d) Provides balanced, accurate information, and skills-based instruction on the risks and benefits of contraceptives, condoms and other disease reduction measures which reduce the risk of unintended pregnancy, exposure to HIV, hepatitis B/C and other sexually transmitted infections and diseases;

(e) Discusses responsible sexual behaviors and hygienic practices which may reduce or eliminate unintended pregnancy, exposure to HIV, hepatitis B/C and other sexually transmitted infections and diseases;

(f) Stresses the risks of contracting HIV, hepatitis B and C and other infectious diseases through sharing of needles or syringes for injecting illegal drugs and controlled substances;

(g) Discusses the characteristics of the emotional, physical and psychological aspects of a healthy relationship;

(h) Discusses the benefits of delaying pregnancy beyond the adolescent years as a means to better ensure a healthy future for parents and their children. Students shall be provided with statistics based on the latest medical information regarding both the health benefits and the possible side effects of all forms of contraceptives, including the success and failure rates for prevention of pregnancy, sexually transmitted infections and diseases;

(i) Stresses that HIV/STDs and hepatitis B/C can be possible hazards of sexual contact;

(j) Provides students with information about Oregon laws that address young people's rights and responsibilities relating to child-bearing and parenting, and prevention of the spread of STDs, STIs, including testing for STDs, STIs, HIV and pregnancy;

(k) Advises pupils of the circumstances in which it is unlawful under ORS 163.435 and 163.445 for persons 18 years of age or older to have sexual relations with persons younger than 18 years of age to whom they are not married;

(l) Encourages positive family communication and involvement and helps students learn to make responsible, respectful and healthy decisions;

(m) Teaches that no form of sexual expression, or behavior is acceptable when it physically or emotionally harms oneself or others and that it is wrong to take advantage of or exploit another person;

(n) Teaches that consent is an essential component of healthy sexual behavior. Course material shall promote positive attitudes and behaviors related to healthy relationships and sexuality, and encourage active student bystander behavior;

(o) Teaches students how to identify and respond to attitudes and behaviors which contribute to sexual violence;

(p) Validates through course material and instruction the importance of honesty with oneself and others, respect for each person's dignity and well-being, and responsibility for one's actions;

(q) Uses inclusive materials, language, and strategies that recognizes different sexual orientations, gender identities and gender expression;

(r) Includes information about relevant community resources, how to access these resources, and the laws that protect the rights of minors to anonymously access these resources; and

(s) Is culturally inclusive.

(7) The comprehensive plan of instruction shall emphasize skills-based instruction that:

(a) Assists students to develop and practice effective communication skills, the development of self-esteem and the ability to resist peer and partner pressure;

(b) Provides students with the opportunity to learn about and personalize peer, media, technology and community influences that both positively and negatively impact their attitudes and decisions related to healthy sexuality, relationships, and sexual behaviors, including decisions to abstain from sexual intercourse;

(c) Enhances students' ability to access valid health information and resources related to their sexual health;

(d) Teaches how to develop and communicate relational, sexual and reproductive boundaries;

(e) Is research-based, evidence-based and/or best practice; and

(f) Aligns with the Oregon Health Education Content Standards and Benchmarks.

(8) All human sexuality education programs shall emphasize that abstinence from sexual intercourse, when practiced consistently and correctly, is the only method that is 100 percent effective against unintended pregnancy, HIV infection (when transmitted sexually), hepatitis B/C infection, and other sexually transmitted infections and diseases. Abstinence is to be stressed, but not to the exclusion of contraceptives and condoms for preventing unintended pregnancy, HIV infection, sexually transmitted infections and diseases, and hepatitis B/C. Such courses are to acknowledge the value of abstinence while not devaluing, ignoring or stigmatizing those students who have had or are having sexual relationships. Further, sexuality education materials, instructional strategies, and activities must not, in any way, use shame or fear based tactics.

(9) As part of the comprehensive plan of human sexuality instruction, each school district shall provide child sexual abuse prevention instruction from kindergarten through grade 12. School Districts must provide a minimum of four instructional sessions per year. One instructional session is equal to one standard class period.

(10) Materials and information shall be presented in a manner sensitive to the fact that there are students who have experienced, perpetrated, or witnessed sexual abuse and relationship violence.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 336.455 & 336.455

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; EB 2-1997, f. & cert. ef. 3-27-97; ODE 25-2002, f. & cert. ef. 11-15-02; ODE 15-2007, f. & cert. ef. 7-6-07; ODE 25-2009, f. & cert. ef. 12-10-09; ODE 10-2013, f. & cert. ef. 4-10-13; ODE 16-2016, f. & cert. ef. 3-22-16

581-022-1510

Comprehensive Guidance and Counseling

(1)(a) District Comprehensive Guidance and Counseling. Each school district shall provide a coordinated comprehensive guidance and counseling program to support the academic, career, personal/social, and community involvement development of each and every student. The district shall:

(b) Adopt comprehensive guidance and counseling program goals that assist students to:

(A) Understand and utilize the educational opportunities and alternatives available to them;

(B) Meet academic standards;

- (C) Establish tentative career and educational goals;
- (D) Create and maintain an education plan and education portfolio;
- (E) Demonstrate the ability to utilize personal qualities, education and training, in the world of work;
- (F) Develop decision-making skills;
- (G) Obtain information about self;
- (H) Accept increasing responsibility for their own actions, including the development of self-advocacy skills;
- (I) Develop skills in interpersonal relations, including the use of affective and receptive communication;
- (J) Utilize school and community resources.
- (K) Demonstrate and discuss personal contributions to the larger community; and
- (L) Know where and how to utilize personal skills in making contributions to the community.

(2) School Comprehensive Guidance and Counseling. Each school shall provide a comprehensive guidance and counseling program that serves students K through 12, based upon the Oregon Department of Education's "Framework for Comprehensive Guidance and Counseling Programs for Pre-Kindergarten through Twelfth Grade" which:

- (a) Identifies staff responsibilities to plan, design and deliver a comprehensive guidance and counseling program that meets the unique needs of their students and community;
- (b) Aligns with the district's school improvement plans;
- (c) Assigns guidance and counseling responsibilities to the appropriate personnel;
- (d) Expects all school staff to participate in implementing the comprehensive guidance and counseling program;
- (e) Assists each student to develop, and annually review, an educational plan (a formalized plan and process in which students establish their education, career and life goals, identify learning goals and connect them to activities that will help them achieve their goals) in grades 7–12. and

(3) Guidance Staff Assignments. Each school district shall maintain a licensed staff and promote effective guidance practices consistent with the district's expected comprehensive guidance and counseling program outcomes. In determining staffing for the program, the following shall be considered:

- (a) Alignment with the American School Counselor Association recommended student to counselor ratio of 250:1;
- (b) The number of aides or clerical staff assigned to support the implementation of the comprehensive guidance and counseling program.

Stat. Auth.: ORS 326.051 & 329.275

Stats. Implemented: ORS 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 19-2008, f. & cert. ef. 6-27-08; ODE 19-2008, f. & cert. ef. 6-27-08

581-022-1512

Child Development Specialist Programs

(1) A Child Development Specialist program is an optional elementary (grades K–8 or any configuration thereof) component of a district's comprehensive guidance and counseling program for grades K–12, based on the Oregon Department of Education's "Framework for Comprehensive Guidance and Counseling Programs for Pre-Kindergarten through Twelfth Grade" under OAR 581-022-1510.

(2) The district school board of every school district operating elementary schools may make the services of a Child Development Specialist available to the children and their families residing in attendance areas of the schools. A Child Development Specialist may serve as guidance staff to help implement the comprehensive guidance and counseling program.

(3) If a district school board chooses to establish a child development specialist program, the school district must meet the following requirements:

- (a) The school district shall submit a written plan describing the program to the Department of Education and the program must be approved by the department.

(b) Upon department approval of a district's plan, a school district may submit a child development specialist candidate application for department approval.

(c) The school district shall conduct an annual review of the program and submit an updated plan to the department for reauthorization of the program.

(d) Each Child Development Specialist employed by a school district shall complete an annual evaluation of the specialist's child development plan to be included with the school district's updated plan.

(4) The department will:

(a) Conduct an annual program review of any district that has established or chooses to establish a Child Development Specialist Program as an elementary, grades K–8, component of the district's K–12 comprehensive guidance and counseling program.

(b) Conduct an annual review of each Child Development Specialist's Summary of Activities as part of the reauthorization process.

(c) Up-date and post all child development specialist forms needed for program approval and CDS authorization/reauthorization on the Oregon Department of Education web page annually.

(d) Maintain a Child Development Specialist Advisory Committee to hear appeals by districts or Child Development Specialist, or to serve when requested by the department for input.

Stat. Auth.: ORS 326.051 & 329.275

Stats. Implemented: ORS 329.255, 329.265 & 329.385

Hist.: 1EB 199, f. 7-1-75, ef. 9-1-75; 1EB 18-1981, f. & ef. 12-23-81; EB 11-1992, f. & cert. ef. 4-7-92; Renumbered from 581-022-1512, ODE 19-2008, f. & cert. ef. 6-27-08

581-022-1520

Media Programs

(1) School District Media Services: The school district shall provide a coordinated media program. The district shall:

- (a) Adopt Program goals for:
 - (A) Media instruction for all grade levels; and
 - (B) Support services.

(b) Provide appropriate instructional facilities, materials, equipment, and services which support the school district, program and course goals;

(c) Assign responsibilities to certificated media specialists and other personnel for the development, implementation, maintenance, and supervision of media services;

(d) Organize media services and materials required for the achievement of district and building media program goals; and

(e) Evaluate district and school media programs.

(2) School Media Services: The school district shall provide in each school a media program consistent with district, program and course goals which:

- (a) Provides an organized media center with materials, equipment and services supervised by appropriate certificated personnel;
- (b) Identifies instructional activities designed to achieve media skills goals; and
- (c) Includes instruction that addresses the ability of each student to:

- (A) Locate and retrieve organized print and nonprint media;
- (B) Use media to record and express ideas and knowledge; and

(C) Listen to, view, interpret and analyze media materials.

(3) In determining whether the assignment of certificated media and other staff is appropriate, the following shall be considered:

- (a) The district, program and course goals of the media services program;
- (b) The number of schools, students and staff to be served;
- (c) The access students and staff have to media services defined in the media program;
- (d) The number, certification and training of personnel assigned to media program responsibilities including specialists, teachers and aides;
- (e) The extent to which staffing patterns vary from general statewide practice; and

(f) The extent to which the media program enables students to attain instructional goals.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96

581-022-1530

Auxiliary Services

(1) Pupil Transportation Services: Pupil transportation provided by the school district shall comply with all applicable Oregon Revised Statutes and Oregon Administrative Rules.

(2) School Food Services: A school district operating a reimbursed student food service program shall comply with State Board of Education and State Health Division rules.

(3) Custodial Services: The school district shall maintain buildings and grounds to provide conditions conducive to health and safety of all persons and in accordance with all applicable Oregon Revised Statutes and Oregon Administrative Rules.

(4) Facilities: The school district shall provide physical facilities which are appropriate to instructional and support program activities.

(5) Equipment and Materials: The school district shall provide furniture, equipment and materials appropriate to instructional and support program activities.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96

581-022-1610

Operating Policies and Procedures

(1) Districts must comply with the state standards set forth in OAR chapter 581, division 22.

(2) Districts must maintain evidence of compliance with the state standards and make such evidence available upon request.

(3) Districts must report compliance with state standards:

(a) To the community by January 15 of each school year; and

(b) To the Department of Education, annually, on a form to be provided by the Department of Education.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 46-2014, f. & cert. ef. 12-17-14

581-022-1620

Required Instructional Time

(1) Each school district shall ensure that at least 92% of all students in the district and at least 80% of all students at each school operated by the district are scheduled to receive annually the following minimum hours of instructional time:

(a) Grade 12 — 966 hours;

(b) Grades 9–11 — 990 hours; and

(c) Grades K–8 — 900 hours.

(2) If a school district chooses to offer less than 900 hours of instructional time for kindergarten students, the kindergarten program shall be considered a half-day program for purposes of ORS 327.006(1) and the school district shall ensure that every kindergarten student is scheduled to receive a minimum of 450 hours of instructional time per year.

(3) Upon approval by the local school board, a district may include in its calculation of instructional time required by subsection (1) of this rule the following:

(a) For kindergarten programs offering 900 hours or more of instructional time, up to 60 hours of recess;

(b) For kindergarten programs offering less than 900 hours of instructional time, up to 30 hours of recess;

(c) For grades 1–3, up to 60 hours of recess;

(d) Up to 30 hours for staff professional development;

(e) Up to 30 hours for parent teacher conferences; and

(f) For the 2015–16 school year, up to 14 hours for emergency school closures due to adverse weather conditions and facilities failure.

(4) For students participating in online instruction:

(a) Instructional time includes online instruction supported by a licensed or registered teacher through electronic means.

(b) For online instruction, up to one hour per course per day may be counted as instructional time where the following criteria are met:

(A) Every student has access to a licensed or registered teacher through in-person, telephone, or electronic means for each course taken; and

(B) Every student has regular contact with school personnel for the purpose of attendance and progress monitoring as outlined in the policies maintained by the Oregon Department of Education.

(c) Instructional time may not be claimed for weekends or holidays, per ORS 336.010 and 187.010, or any other day during which a licensed or registered teacher is not available to students.

(5) There shall be no fewer than 265 consecutive calendar days between the first and last instructional day of each school year at each grade level.

(6) No student shall be required to exceed the following number of instructional hours per day:

(a) Grades 9–12 — 8.5 hours;

(b) Grades K–8 — 8 hours.

(7) The minimum instructional hours requirement set forth in subsection (1) of this rule shall first apply to the 2015–16 school year but full compliance shall be phased in over a period of four school years. A school district will be in compliance with the requirements of subsection (1) of this rule if the following benchmarks are met:

(a) For the 2015–16 school year, at least 80% of all students in the district must be scheduled to receive the minimum hours of instructional time set forth in subsection (1) of this rule.

(b) For the 2016–17 school year, at least 85% of all students in the district must be scheduled to receive the minimum hours of instructional time set forth in subsection (1) of this rule.

(c) For the 2017–18 school year, at least 90% of all students in the district must be scheduled to receive the minimum hours of instructional time set forth in subsection (1) of this rule.

(d) For the 2018–19 school year, at least 92% of all students in the district and at least 80% of all students at each school operated by the district must be scheduled to receive the minimum hours of instructional time set forth in subsection (1) of this rule.

(8) The State Board of Education shall conduct a public hearing and board discussion relating to instructional time at the 2016, 2017 and 2018 January board meetings. The purpose of the public hearing will be to receive information about and consider the implementation and potential financial concerns relating to required instructional time, OAR 581-022-0102 (definition of instructional time) and 581-022-1131 (credit options).

Stat. Auth.: ORS 326.011 & 326.051

Stats. Implemented: ORS 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 25-2008, f. & cert. ef. 9-26-08; ODE 2-2015, f. 1-30-15, cert. ef. 7-1-15

581-022-1622

Independent Adoptions of Instructional Materials

Without prior notice to the State Board of Education, the district school board of any school district, with the assistance of teachers and administrators of the district, may adopt independently instructional materials for use in place of or in addition to those adopted by the Board, provided they meet the guidelines and criteria established by the Board. The district school board shall involve parents and citizens in the process. Such district adoptions shall be known as independent adoptions. (2) In order to give proper notification that an independent adoption is being made, the administrative head of the district must provide the district school board, prior to placing the instructional materials into use in the local schools, the following information:

(1) The subject, category, and grade level(s) in which the instructional materials will be used;

(2) The title of the instructional materials;

(3) The publisher of the instructional materials;

(4) The copyright date of the instructional materials;

(5) The date on which the district intends to install the instructional materials for use in the school system; and

(6) A statement that a completed criteria checklist showing the degree to which the instructional materials meet the criteria established by the State Board of Education is on file in the district office. (Criteria checklists for the specific subject/category are available from the Department of Education.)

(7) A statement of assurance that the independently adopted instructional materials will comply with the most current National Instructional Materials Accessibility Standard (NIMAS) specifications regarding accessible instructional materials.

Stat. Auth.: ORS 337.050(2) & 337.141
Stats. Implemented: ORS 337.120 & 337.141
Hist.: IEB 215, f. 1-29-76, ef. 2-25-76; IEB 245, f. & ef. 9-23-76; IEB 19-1982, f. & ef. 11-23-82; EB 2-1991, f. & cert. ef. 2-28-91; EB 21-1991(Temp), f. 10-30-91, cert. ef. 11-1-91; EB 30-1991, f. & cert. ef. 12-18-91; ODE 10-2001, f. & cert. ef. 5-15-01; Renumbered from 581-011-0085, ODE 25-2008, f. & cert. ef. 9-26-08; ODE 3-2009, f. & cert. ef. 6-29-09; ODE 22-2012, f. & cert. ef. 8-1-12

581-022-1630

Daily Class Size

A school district shall maintain class sizes and teacher assignments which promote effective practices consistent with the outcomes expected of each instructional program.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 326.051
Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 25-2008, f. & cert. ef. 9-26-08

581-022-1640

Instructional Materials Adoption

(1) For each program and course in grades K–12, each school district, on a cycle established by the State Board of Education, shall select and provide students with free appropriate instructional and resource materials produced in accordance with the National Instructional Materials Accessibility Standard (NIMAS). These materials shall contribute to the attainment of district, program, and course or grade level goals and reflect recent knowledge, trends, and technology in the field. The school district process for selecting and adopting instructional materials shall include opportunities for citizen and parent involvement.

(2) The school district process must identify whether the district coordinates with the National Instructional Materials Access Center (NIMAC) when purchasing print materials under OAR 581-022-1622 and 581-022-1650.

(3) Districts that do not coordinate with NIMAC must provide instructional materials to persons who are blind and persons with print disabilities in accessible formats under 581-015-2060.

(4) Sufficient quantities, including those produced in alternate formats and those that cannot be produced from NIMAS files, shall be available in a timely manner to accommodate the number of students who will be using them at any one time. A timely manner means the materials are available at the same time materials are available for students who do not need materials in alternate formats.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 337.150
Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 11-1998, f. & cert. ef. 6-23-98; ODE 13-2007, f. 4-25-07, cert. ef. 4-27-07; ODE 3-2009, f. & cert. ef. 6-29-09

581-022-1650

Postponement of Purchase of State-Adopted Instructional Materials

If a district seeks to postpone regular purchase of state-adopted materials as required by ORS 337.120, it shall submit an application to the Department which shall include:

- (1) The reason for seeking postponement;
- (2) The subjects or categories for which postponement is sought;
- (3) The projected dates for purchase and implementation of new instructional materials which shall not be later than two years from the beginning of the school year following the state adoption;
- (4) Identification of the instructional materials to be used during the postponement;
- (5) Assurance that the postponement will not delay future purchases in other subject areas; and

(6) Local school board approval of the application and the date of such approval.

Stat. Auth.: ORS 337.120
Stats. Implemented: ORS 337.120
Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 3-2009, f. & cert. ef. 6-29-09

581-022-1660

Records and Reports

(1) Required Records and Reports: The school district shall provide all records and reports required by the Oregon Department of Education.

(2) Student Activity Funds: The school district shall prescribe the purposes for which student activity funds may be obtained and used and the role of students in management and expenditure of funds.

(3) Education Records of Students: The school district shall maintain education records of students according to the provisions of OARs 581-021-0210 through 581-021-0440.

(4) ESD Annual Report: Pursuant to the requirements and review schedule as set out in OAR 581-024-0228 and ORS 334.125(9), all school districts shall cooperate with their education service district in:

- (a) Annually reviewing specific school district operations for purposes of achieving economies and efficiencies; and
- (b) Preparing and submitting an annual report concerning the results of the annual review to the State Board of Education.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 334.125(9)
Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 3-1999, f. & cert. ef. 1-12-99

581-022-1661

Report on Physical Education Data

(1) The following definitions apply to this rule:

- (a) “Additional facilities” means the added space to the school needed to provide the minimum number of minutes of physical education instruction per week.
- (b) “Number of minutes” means the number of minutes of physical education instruction that is actually provided to all students kindergarten through grade 8 each school week.
- (c) “Physical capacity” means the space, indoors and out, available at the school to provide the prescribed number of minutes per at a class size that promotes effective practices consistent with the outcomes expected of the instructional programs.

(2) The Department of Education shall collect from school districts:

- (a) The number of minutes of physical education that are provided to students in kindergarten through grade 8 each school week in each public school within the district;
- (b) The physical capacity of public schools to provide students in kindergarten through grade 5 with at least 150 minutes of physical education during each school week and to provide students in grades 6 through 8 with at least 225 minutes of physical education during each school week; and
- (c) The additional facilities required by public schools to provide physical education to students for the minimum number of minutes as described in paragraph (b) of this subsection.

(3) The department shall collect the data described in paragraph (2) of this section:

- (a) Annually, for data described in paragraph (2)(a) of this section.
- (b) Whenever a public school increases or decreases the school’s physical capacity to provide students with physical education, for data described in paragraph (2)(b) and (c) of this paragraph.
- (4) Prior to February 1 of each odd-number year, the Department shall report to the Legislative Assembly on the data collected under this rule for the prior two school years.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 329.498
Hist.: ODE 30-2007, f. & cert. ef. 12-12-07; ODE 42-2014, f. & cert. ef. 12-4-14

581-022-1670

Individual Student Assessment, Recordkeeping, Grading, and Reporting

(1) As used in this rule:

(a) "Continuum of knowledge and skills" means the Oregon Academic Content Standards.

(b) "Proficiency" means demonstrated knowledge and skills which meet or exceed defined levels of performance.

(2) Each school district shall assess and record each student's progress and achievement in all subject areas of instruction and to academic content standards consistent with ORS 329.045 and OAR 581-022-1210:

(a) At a minimum, provide all teachers of reading/language arts and mathematics in grades in which the State administers assessments in those subjects with student performance data, including growth data on their current students and students they taught in the previous year in a manner that is timely and informs instructional programs.

(b) Instruments and/or strategies used to determine student progress may assess multiple standards;

(c) Results from the assessment instruments and/or strategies may be used as a record of achievement level; and

(d) Records of student performance may be kept in teacher grade books, student folders, portfolios, or similar devices.

(3) Each school district shall assist teachers in adapting instruction and curriculum to meet the needs and learning rates of all students in achieving proficiency in the academic content standards. Districts must:

(a) Provide multiple opportunities for students to demonstrate mastery of academic content standards through sufficient and appropriate assessment evidence.

(b) Continue to provide opportunities for students who have met standards to advance their learning.

(c) Provide students who have not met or have exceeded the academic content standards with access to additional services and other public school or alternative educational options.

(4) Each school district shall annually report progress towards completion of diploma requirements to parents of students in grades 9–12, including credits earned, demonstration of extended application, and demonstration of the Essential Skills.

(5) Each school district shall adopt a grading system based on the local district board adopted course content aligned to the academic content standards consistent with Section (2) of this rule. The grading system shall:

(a) Clearly show the student and parents whether the student is achieving course requirements at the student's current grade level;

(b) Be based on the student's progress toward becoming proficient in a continuum of knowledge and skills; and

(c) Assure that the student's academic grade reflects his/her academic performance consistent with OAR 581-021-0022; behavioral performance shall be reported separately.

(6) Each school district shall report at least annually on student progress to meeting or exceeding grade-level academic content standards to parents or guardians of all students in grades K-12 including, but not limited to, the following:

(a) Information on progress in each subject area (e.g., grades, checklists, folders, etc.) including major goals used to determine such information;

(b) Upon request from a parent or guardian, specific evidence of student progress on the continuum of knowledge and skills (academic content standards) of a subject area and

(c) Student scores on all state and local assessments indicating any of the requirements that have been waived for the school district or the individual and the time periods for the waiver.

(7) Each school district shall maintain student records under the student's legal name and SSID or establish a cross-reference system to locate the student's records by use of the student's legal

name, for time periods consistent with state archive rules as outlined in OAR 166-400-0060.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 18-2002, f. & cert. ef. 6-10-02;

ODE 25-2008, f. & cert. ef. 9-26-08; ODE 7-2013, f. & cert. ef. 2-20-13

581-022-1710

Personnel

(1) All teachers, specialists, and administrators employed by school districts must hold valid Oregon licenses and be assigned in accordance with the individual license district policies, program goals and applicable statutes and administrative rules.

(2) Any school district employing teacher aides shall follow applicable Oregon Administrative Rules.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 25-2008, f. & cert. ef. 9-26-08

581-022-1720

Personnel Policies

(1) The school district shall adopt and implement personnel policies which address:

(a) Affirmative action;

(b) Staff development;

(c) Equal employment opportunity;

(d) Evaluation procedures; and

(e) Employee communication system.

(f) The requirement for releasing to Teacher Standards and Practices Commission, another district or any person upon request the disciplinary records of an employee or former school employee if the employee was convicted of one or more of the list of crimes addressed in ORS 342.143.

(2) Personnel policies shall be accessible to any school employee and notice of their availability to the general public shall be published:

(a) A current copy shall be accessible in each school office and library; and

(b) Any organization which represents employees of the district shall be furnished a copy and revisions as they are made.

(3) Bonded Employees: All employees responsible for funds, fees or cash collections shall be bonded in compliance with Oregon Revised Statutes and Oregon Administrative Rules.

(4) Employees for whom a teaching certificate is not required: The school district shall give to each such employee an individual written notice of reasonable assurance of continued employment as required by ORS 332.554.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 25-2008, f. & cert. ef. 9-26-08;

ODE 21-2011, f. & cert. ef. 12-15-11

581-022-1723

Teacher and Administrator Evaluation and Support

(1) A school district board shall include the core teaching standards and administrator standards adopted by the State Board for all evaluations of teachers and administrators of the school district occurring on or after July 1, 2013. The standards shall be customized based on the collaborative efforts of the teachers and administrators of the school district and the exclusive bargaining representative of the employees of the school district.

(2) The core teaching standards and administrator standards must:

(a) Take into consideration multiple measures of teacher and administrator effectiveness that encompass a range of appropriate teaching and administrator behaviors based on the adopted standards of professional practice to evaluate teacher and administrator performance which may include, but are not limited to:

(A) Classroom-based assessments including observations, lesson plans and assignments;

(B) Portfolios of evidence;

(C) Supervisor reports; and

(D) Self-reflections and assessments.

(b) Take into consideration evidence of student academic growth and learning based on multiple measures of student progress, including performance data of students, schools, and school districts;

(c) Be research-based;

(d) Be separately developed for teachers and administrators; and

(e) Be customized for each school district, which may include individualized weighting and application of standards.

(3) Evaluations using the core teaching and administrator standards must attempt to:

(a) Strengthen the knowledge, skills, disposition and classroom and administrative practices of teachers and administrators in public schools;

(b) Refine the support, assistance and professional growth opportunities offered to a teacher or an administrator, based on the individual needs of the teacher and administrator and the needs of the students, the school and the school district;

(c) Allow each teacher or administrator to establish a set of classroom or administrative practices and student learning objectives that are based on the individual circumstances of the teacher or administrator, including the classroom or other assignments of the teacher or administrator;

(d) Establish a formative growth process for each teacher and administrator that supports professional learning and collaboration with other teachers and administrators; and

(e) Use evaluation methods and professional development, support and other activities that are based on curricular standards and that are targeted to the needs of each teacher and administrator.

(4) Local evaluation and support systems established by school districts for teachers and administrators must be designed to meet or exceed the requirements defined in the Oregon Framework for Teacher and Administrator Evaluation and Support Systems, including:

(a) Four performance level ratings of effectiveness;

(b) Using the Oregon Matrix as the summative evaluation method for combining multiple measures of professional practice, professional responsibilities, and student learning and growth to determine the educator's professional growth plan and overall performance level beginning in the 2014-2015 school year.

(c) Based on significant consideration of student learning and growth which must include but is not limited to:

(A) Academic performance, as determined by the statewide assessment system implemented by the Department of Education under ORS 329.485;

(B) Formative and summative assessments; and

(C) For teachers, classroom-level student learning and growth goals set collaboratively between teachers and evaluators.

(5) Local evaluation and support systems established by school districts must evaluate teachers and administrators on a regular cycle.

(6) District superintendents shall regularly report to their governing boards on implementation of their local evaluation and support systems and educator effectiveness.

Stat. Auth: ORS 342.805 - 342.937

Stats. Implemented: 2011 OL Ch. 729 Sec. 2 (Enrolled SB 290)

Hist.: ODE 21-2011, f. & cert. ef. 12-15-11; ODE 23-2012, f. & cert. ef. 8-1-12; ODE 11-2015(Temp), f. & cert. ef. 7-15-15 thru 1-10-16; Administrative correction, 1-22-16; ODE 33-2016, f. & cert. ef. 5-5-16

581-022-1724

Core Teaching Standards

School districts shall use the core teaching standards to evaluate teacher effectiveness outlined in OAR 581-022-1723. Performances, essential knowledge and critical dispositions for each standard are contained within the Interstate Teacher Assessment and Support Consortium (InTASC) core teaching standards published at: http://www.ccsso.org/Documents/2011/InTASC_Stds_MS_Word_version_4_24_11.doc. The core teaching standards are the same standards adopted by the Teacher Standards and Practices Commission

(TSPC) for initial and advanced teacher preparation. The standards include:

(1) The Learner and Learning.

(a) Learner Development: The teacher understands how learners grow and develop, recognizing that patterns of learning and development vary individually within and across the cognitive, linguistic, social, emotional, and physical areas, and designs and implements developmentally appropriate and challenging learning experiences. [InTASC Standard #1].

(b) Learning Differences: The teacher uses understanding of individual differences and diverse cultures and communities to ensure inclusive learning environments that enable each learner to meet high standards. [InTASC Standard #2].

(c) Learning Environments: The teacher works with others to create environments that support individual and collaborative learning, and that encourage positive social interaction, active engagement in learning, and self motivation. [InTASC Standard #3].

(2) Content.

(a) Content Knowledge: The teacher understands the central concepts, tools of inquiry, and structures of the discipline(s) he or she teaches and creates learning experiences that make these aspects of the discipline accessible and meaningful for learners to assure mastery of the content. [InTASC Standard # 4].

(b) Application of Content: The teacher understands how to connect concepts and use differing perspectives to engage learners in critical thinking, creativity, and collaborative problem solving related to authentic local and global issues. [InTASC Standard #5].

(3) Instructional Practice.

(a) Assessment: The teacher understands and uses multiple methods of assessment to engage learners in their own growth, to monitor learner progress, and to guide the teacher's and learner's decision making. [InTASC Standard #6].

(b) Planning for Instruction: The teacher plans instruction that supports every student in meeting rigorous learning goals by drawing upon knowledge of content areas, curriculum, cross-disciplinary skills, and pedagogy, as well as knowledge of learners and the community context. [InTASC Standard #7].

(c) Instructional Strategies: The teacher understands and uses a variety of instructional strategies to encourage learners to develop deep understanding of content areas and their connections, and to build skills to apply knowledge in meaningful ways. [InTASC Standard # 8].

(4) Professional Responsibility.

(a) Professional Learning and Ethical Practice: The teacher engages in ongoing professional learning and uses evidence to continually evaluate his/her practice, particularly the effects of his/her choices and actions on others (learners, families, other professionals, and the community), and adapts practice to meet the needs of each learner. [InTASC Standard #9].

(b) Leadership and Collaboration: The teacher seeks appropriate leadership roles and opportunities to take responsibility for student learning, to collaborate with learners, families, colleagues, other school professionals, and community members to ensure learner growth, and to advance the profession. [InTASC Standard #10].

Stat. Auth: ORS 342.805-342.937

Stats. Implemented: OL 2011 § 2, Ch 729 (SB 290)

Hist.: ODE 21-2011, f. & cert. ef. 12-15-11

581-022-1725

Educational Leadership — Administrator Standards

School districts shall use the educational leadership-administrator standards to evaluate administrator effectiveness outlined in OAR 581-022-1723. These standards align with the Educational Leadership Constituents Council (ELCC) standards for Educational Leadership published at: <http://www.ncate.org/Standards/ProgramStandardsandReportForms/tabid/676/Default.aspx#ELCC>. The knowledge and skill abilities required for each program standard are found within the full document of the standards. These standards are aligned with the Interstate School Leaders Licensure Consortium (ISLLC) published at: http://www.ccsso.org/Documents/2008/Educational_Leadership_Policy_Standards_2008.pdf.

The educational leadership-administrator standards are the same standards adopted by the Teacher Standards and Practices Commission (TSPC) for administrator licensure. The standards include:

(1) Visionary Leadership: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by stakeholders. [ISLLC Standard 1].

(2) Instructional Improvement: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by sustaining a positive school culture and instructional program conducive to student learning and staff professional growth. [ISLLC Standard 2].

(3) Effective Management: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by ensuring management of the organization, operation, and resources for a safe, efficient, and effective learning environment. [ISLLC Standard 3].

(4) Inclusive Practice: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by collaborating with faculty and community members, responding to diverse community interests and needs, and mobilizing community resources in order to demonstrate and promote ethical standards of democracy, equity, diversity, and excellence, and to promote communication among diverse groups. [ISLLC Standard 4].

(5) Ethical Leadership: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by acting with integrity, fairness, and in an ethical manner. [ISLLC Standard 5].

(6) Socio-Political Context: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context. [ISLLC Standard 6].

Stat. Auth.: ORS 342.805 - 342.937

Stats. Implemented: 2011 OL Ch. 729 Sec. 2 (Enrolled SB 290)

Hist.: ODE 21-2011, f. & cert. ef. 12-15-11; ODE 23-2012, f. & cert. ef. 8-1-12

581-022-1730

Fingerprinting of Subject Individuals in Positions Not Requiring Licensure as Teachers, Administrators, Personnel Specialists, School Nurses

All public school districts shall comply with the requirements for Fingerprinting of subject individuals as defined in and in compliance with OAR 581-021-0500.

Stat. Auth.: ORS 326.603

Stats. Implemented: ORS 326.603

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 12-1998(Temp), f. & cert. ef. 6-23-98 thru 12-19-98; ODE 4-1999, f. & cert. ef. 1-12-99; ODE 29-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 13-2003(Temp), f. & cert. ef. 7-1-03 thru 12-15-03; ODE 3-2004, f. & cert. ef. 1-15-04; ODE 9-2006, f. & cert. ef. 2-21-06; ODE 25-2008, f. & cert. ef. 9-26-08

581-022-1910

Exemptions

(1) The school district may excuse students from a state required program or learning activity, where necessary, to accommodate students' disabilities or religious beliefs:

(a) Approval of the exemption shall be based upon and shall include:

(A) A written request from the student's parent or guardian or the student, if the student is 18 years of age or older or a legally emancipated minor, listing the reasons for the request and a proposed alternative for an individualized learning activity which substitutes for the period of time exempt from the program and meets the goals of the learning activity or course being exempt;

(B) An evaluation of the request and approval by appropriate school personnel (the alternative should be consistent with the student's educational progress and career goals as described in OARs 581-022-1670 and 581-022-1510).

(b) Following approval by the district school board, and upon completion of the alternative, credit shall be granted to the student.

(2) The school district may approve and grant credit to a student for the alternative to a state required program or learning activity if the procedures in section (1) of this rule are followed.

(3) Subsections (1) and (2) of this rule do not apply to exemption from participating in Oregon's statewide summative assessments, which are defined as statewide assessments used to meet both participation and performance requirements for state and federal systems accountability. Exemption from Oregon's statewide summative assessments is instead governed by Section 2, chapter 519, Oregon Laws 2015 (Enrolled House Bill 2655). ODE will annually publish notice about Oregon's statewide summative assessments and an opt-out form as required under by Section 2, chapter 519, Oregon Laws 2015 (Enrolled House Bill 2655).

(4) Subsection (3) of this rule will sunset as of July 1, 2021.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 23-2015, f. & cert. ef. 12-18-15

581-022-1920

Waivers

School districts may request two types of waivers as follows:

(1) Waiver of a specific standard: To address an immediate concern or need, a school district may petition the State Superintendent of Public Instruction for a waiver of a specific standard. A petition shall specify the reason(s) the district is seeking the waiver and other relevant information. If it is determined that the request conforms with the intent of the standards, the State Superintendent shall recommend the waiver to the State Board. Waivers under this provision may be granted for up to one year.

(2) Educational Flexibility Partnership Demonstration Act (Ed-Flex) Waiver:

(a) This federal Act allows school districts to request a waiver of statutory or regulatory requirements under the following federal programs or Acts:

(A) Elementary and Secondary Education Act (ESEA) Title I, Helping Disadvantaged Children Meet High Standards;

(B) ESEA Title II, Teacher Quality;

(C) ESEA Title IV, Safe Drug Free Schools;

(D) ESEA Title V, Innovative Education Program Strategies;

(E) ESEA Title VII, Part C — Emergency Immigrant Education;

(F) Carl D. Perkins Vocational and Applied Technology Education Act.

(b) The application must demonstrate that the school district, if the waiver is granted, will still meet the underlying purposes of the federal statutory requirements. The request of an Ed-Flex Waiver must be made on the appropriate application form available from the Department of Education. Waivers under this provision may be granted for periods not to exceed five years.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051, 329.077 & 329.555

Hist.: EB 2-1997, f. & cert. ef. 3-27-97; ODE 11-2002, f. & cert. ef. 4-12-02; ODE 25-2008, f. & cert. ef. 9-26-08

581-022-1940

Appeal Procedure

(1) A complainant may direct an appeal of a final decision by a school district to the State Superintendent of Public Instruction if:

(a) The complaint alleges a violation of standards of the Oregon Administrative Rules, chapter 581, division 022; or

(b) A violation of other statutory or administrative rule requirements for which the State Superintendent has appeal responsibilities.

(2) The appeal must be in writing and contain:

(a) The name and address of the person bringing the appeal, and the district in which that person resides;

(b) The name and address of the district which is alleged to have violated standards; and

(c) A brief statement indicating each standard the district is alleged to have violated and how the district is alleged to have violated it.

(3) A decision is deemed final if:

(a) The district has failed to comply with the procedural time limits in its written complaint process;

(b) In a multi-step district complaint process, the district fails to render a written decision within 30 days of the submission of the complaint at each step; or

(c) The district fails to resolve a complaint within 90 days of the initial filing of a written complaint, regardless of the number of steps in the district complaint process.

(4) Upon receipt of the appeal the State Superintendent will determine whether a violation of standards has been properly alleged and the requirements of section (2) of this rule have been satisfied.

(a) If the State Superintendent determines that the facts of complaint, if true, would be a violation of a standard, the appeal will be accepted and the procedures listed in this rule in the following sections will be applied;

(b) If the State Superintendent determines that the complaint, even if true, would not violate a standard, the appeal will not be accepted. In either case, the State Superintendent will give notice of the determination to the complainant and the school district.

(5) Within 30 days of receipt of notice of the State Superintendent's acceptance of the appeal, the district shall submit a written report with the State Superintendent which shall include:

(a) A statement of facts;

(b) A statement of district action, if any, taken in response to the complaint, or if none was taken, the reason(s) therefore;

(c) A stipulation, if one was reached, of the settlement of the complaint; and

(d) A list of any complaints filed with another agency by the party, concerning the subject of the appeal.

(6) The State Superintendent may for good cause extend the time for the filing of a report by the district.

(7) Upon receipt of the district's report, the State Superintendent will investigate the allegations of the complaint to the extent necessary including but not limited to:

(a) Authorizing an on-site investigation; and

(b) Conducting interviews, meetings and surveys and reviewing documents, data and district procedures.

(8) The State Superintendent will issue a written decision within 60 days of receiving the district's report that addresses each allegation in the complaint and contains reasons for the State Superintendent's decision as to whether or not the district is deficient. If the schools of the district are not open during the 60-day period due to summer vacation, the decision shall be issued within 60 days after the beginning of the school year.

(9) Notwithstanding section (8) of this rule, the State Superintendent may extend the time period for issuing a written decision on a complaint to a time period that is more than 60 days if the State Superintendent has the consent of the complainant and the allegation concerns a comprehensive or widespread deficiency and more extensive investigation is needed than may be reasonably completed within 60 days. The State Superintendent shall prepare a timeline and plan for investigation and provide copies to the complainant and district within two weeks of receiving the district's report.

(10) If a deficiency is found, the State Superintendent's written decision will include any necessary corrective action to be undertaken by the district as well as any documentation to be supplied to ensure that the corrective action has occurred.

(11) If a deficiency is not corrected, the provisions of ORS 327.103 will apply.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 327.103 & 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 31-2007, f. & cert. ef. 12-12-07

581-022-1941

Complaint Procedures

(1) Each school district must establish a process for the prompt resolution of a complaint by a person who resides in the district or by any parent or guardian of a student who attends school in the school district. The process must be in writing and state clearly who within the school district has the responsibility for responding to the complaint.

(2) A school district's complaint procedure must specify the time period during which the complaint will be addressed and a final decision issued. If the complaint procedure has multiple steps, the procedure must establish the time period for each step as well as the overall time period for completing the procedure.

(3) A school district's complaint procedure may distinguish between those complaints that may be appealed under OAR 581-022-1940 and other complaints.

(4) A school district's complaint procedure may include mediation or other alternative dispute resolution processes.

(5) The procedure for hearing and acting on complaints that may be appealed under OAR 581-022-1940 must include the following:

(a) A point at which the decision is final;

(b) A provision for the complainant receive written notice that the district's decision may be appealed to the State Superintendent of Public Instruction under OAR 581-022-1940; and

(c) A written decision that clearly establishes the legal basis for the decision, findings of fact and conclusions of law.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 327.103 & 326.051

Hist.: ODE 31-2007, f. & cert. ef. 12-12-07

581-022-2130

Kindergarten Assessment

(1) The Department of Education shall implement a kindergarten assessment as part of the statewide assessment system implemented pursuant to ORS 329.485. The kindergarten assessment shall allow for the assessment of children to determine their readiness for kindergarten.

(2) The Department shall work jointly with the Early Learning Council to adopt a tool to be used for the kindergarten assessment. The kindergarten assessment shall measure areas of school readiness, which may include physical and social-emotional development, early literacy, language, cognitive (including mathematics), and logic and reasoning. The tool selected will be appropriate for all children including children with high needs and English language learners, and will align with Oregon's early learning and development standards as well as the adopted Common Core State Standards.

(3) Prior to November 1, 2013 the department shall make the kindergarten assessment available to school districts.

(4) Beginning with the 2013-2014 school year, all school districts shall administer the kindergarten assessment to students who are enrolled in kindergarten.

(5) The Department shall include the results of the kindergarten assessment in the statewide longitudinal data system.

Stat. Auth. ORS 326.051 & 329.485

Stats. Implemented: ORS 329.485 & 2013 OL Ch. 37, Sec. 14 (Enrolled HB 4165)

Hist.: ODE 8-2013, f. & cert. ef. 4-5-13; ODE 34-2016, f. & cert. ef. 5-17-16

581-022-2223

Healthy and Safe Schools Plan

(1) Each school district and public charter school must develop a Healthy and Safe Schools Plan for all buildings owned or leased by the school district or public charter school where students and staff are present on a regular basis.

(2) On or before October 1, 2016, school districts and public charter schools must report to the local school board or charter board on all elements of the Healthy and Safe Schools Plan as described in subsection (5) of this rule.

(3) School districts and public charter schools must submit a preliminary draft of the Healthy and Safe Schools Plan to the Department of Education on or before October 1, 2016. School dis-

tricts and public charter schools must submit the final draft of the Healthy and Safe Schools Plan to the Department of Education on or before January 1, 2017. Thereafter, school districts and public charter schools must annually submit an updated Healthy and Safe Schools Plan if new buildings are acquired, constructed, or leased or if the plan is modified by the school district or public charter school.

(4) The Department of Education shall develop a model Healthy and Safe Schools Plan. The Department shall seek the input of the Oregon Health Authority Public Health Division, the Oregon Department of Environmental Quality and other stakeholders in developing the model plan. The model plan shall be made available on or before September 15, 2016.

(5) At a minimum, the Healthy and Safe Schools Plan must include:

(a) The position within the school district's or public charter school's administration responsible for maintaining and implementing the Healthy and Safe Schools Plan;

(b) A list of all facilities that are included in the school district's or public charter school's Plan;

(c) A plan to test for elevated levels of radon as required under ORS 332.167;

(d) A plan to test for and reduce exposure to lead in water used for drinking or food preparation. An Oregon Health Authority accredited lab must be used for all testing.

(e) A plan to reduce exposure to lead paint that includes the following compliance with the United States Environmental Protection Agency's Renovation, Repair and Painting Program Rule.

(f) A plan to implement integrated pest management practices as required under ORS 634.700 through 634.750; and

(g) A plan to communicate results for all tests required under the Healthy and Safe Schools Plan that includes:

(A) The school district or public charter school must make all test results available to the public within five business days of receiving the results;

(B) The school district or public charter school must make the results available to the public by posting the results on the school district or public charter school website, sending notice of the results over the email system, and making the results available in hardcopy at the main administration office; and

(C) The school district or public charter school must provide detailed information explaining the test results.

(6) School districts and public charter schools must annually provide a statement regarding the Healthy and Safe Schools Plan.

(a) The annual statement must be made to the following:

(A) The school district or charter school board;

(B) All building occupants or for occupants who are under the age of 18, their parents or legal guardians; and

(C) The community by posting information on the school district or public charter school website and making the information available at the main administering building.

(b) The annual statement must include the following information:

(A) The position within the school district's or public charter school's administration responsible for maintaining and implementing the Healthy and Safe Schools Plan;

(B) How to obtain a copy of the Safe and Healthy Schools Plan;

(C) A certification that the Healthy and Safe School Plan is up to date and that all required testing has been completed;

(D) How to access any results for tests conducted pursuant to the Plan; and

(E) A high level summary of major mitigation efforts in the last year as a result of the Healthy and Safe Schools Plan.

(7) The reports due under subsection (5) of this rule are in addition to any reporting required by any other regulatory authority under state or federal law.

Stat. Auth.: ORS 326.051

Stat. Implemented: ORS 326.051

Hist.: ODE 42-2016, f. & cert. ef. 8-19-16

DIVISION 23

SCHOOL FINANCE

581-023-0006

Student Accounting Records and State Reporting

(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 581-022-1620;

(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 581-022-1620(1) and is in session during the day in compliance with OAR 581-022-16;

(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 581-022-1620(2).

(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 581-022-1210 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 581-022-1210 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 581-022-1210 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.

(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 of 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.

Stat. Auth.: ORS 326.310 & 327.125

Stats. Implemented: ORS 327

Hist.: 1EB 1-1981, f. 2-5-81, ef. 7-1-81; 1EB 14-1985, f. 7-3-85, ef. 7-5-85; 1EB 28-1986, f. & ef. 7-18-86; EB 17-1987, f. & ef. 8-4-87; EB 18-1987(Temp), f. & ef. 8-4-87; EB 33-1987, f. & ef. 12-11-87; EB 38-1988, f. & cert. ef. 9-22-88; EB 30-1992, f. & cert. ef. 10-14-92; EB 6-1996, f. & cert. ef. 4-25-96; ODE 3-2007, f. & cert. ef. 2-21-07; ODE 23-2008, f. 8-28-08, cert. ef. 8-29-08; ODE 26-2009, f. & cert. ef. 12-10-09; ODE 2-2016, f. & cert. ef. 2-5-16

581-023-0008

Accountable Activities for Alternative Education Programs

(1) For purposes of determining class group size for alternative education programs, instruction must be provided by a teacher as defined in OAR 581-023-0006. For purposes of determining class

group size, instruction may not be provided by an “Educational Assistant” or “Instructional Assistant” who provides support to a teacher.

(2) Alternative education programs must provide accountable activities. Accountable activities are defined as one or more of the following as approved by the school district by contract:

- (a) Tutorial Instruction;
- (b) Small group instruction;
- (c) Large group instruction;
- (d) Personal growth and development instruction;
- (e) Counseling and guidance;
- (f) Computer assisted instruction;
- (g) Vocational training;
- (h) Cooperative work experience and/or supervised work experience;

(i) Instructional activities provided by institutions accredited by the Northwest Association of Schools and Colleges;

(j) Supervised community service activities performed as part of the instructional program; and

(k) Supervised independent study in accordance with a student’s educational goals including classroom or equivalent work supervised by school district officials that serve as one component of the student’s educational plan and profile and not the entire part. Examples of this include required and elective courses, supervised independent study, career-related learning experiences, and project based learning.

(3) Programs must provide instruction based on academic content standards adopted by the State Board of Education and must ensure students participate in district and state assessments of achievement for the grade level(s) the program serves and must:

(a) Assist the district in meeting its comprehensive K–12 instructional program in compliance with OAR 581-022-1210,

(b) Assist the district in awarding a High School Diploma according to ORS 329.451 and 581-022-1115, Modified Diploma described in OAR 581-022-1134, or Alternative Certificate described in 581-022-1135, to a student who completes the requirements established by the State Board of Education and the school district,

(c) Assist student in demonstrating Proficiency in Core or Academic Content Standards, and Essential Skills in accordance with OAR 581-022-1131,

(d) Provide evidence of academic progress included and maintained by the resident school district in the student’s permanent record, as defined by OAR 581-021-0250,

(e) Provide a course of study and activities that are correlated with the academic content standards in accordance with OAR 581-022-1210,

(f) Provide National Education Statistics Course Codes and Descriptions for Secondary Courses where academic credit is offered.

(4) Programs must provide teachers as defined in OAR 581-023-0006 and educational assistants as defined in ORS 342.120. Provide teachers as defined in OAR 581-023-0006 and educational assistants as defined ORS 342.120.

Stat. Auth.: ORS 36.051 & 336.635

Stats. Implemented: ORS 327.125 & 336.615 - 336.665

Hist.: EB 34-1987, f. & ef. 12-11-87; ODE 23-2008, f. 8-28-08, cert. ef. 8-29-08

581-023-0009

Small High School Grants

(1) For purposes of this rule, “small school district” and “small high school” are as defined in Chapter 670, Oregon Laws 2001.

(2) For fiscal years 2001–02 and 2002–03, the department shall award a base grant to each small school district with one or more small high schools that is equal to \$200 per ADM in grades 9–12 of each small high school in the small school district. The Department of Education will distribute the grants no later than October 15 in each of the two fiscal years.

(3) For fiscal years 2001–02 and 2002–03, the department may annually award a needs grant to each small school district with one or more small high schools based on the financial needs of the district as described in Chapter 670, Oregon Laws 2001.

(4) Small school districts with small high schools may apply for a portion of the approximately \$1 million to be distributed as needs grants each year.

(5) Grant applications must be received at the Department of Education no later than July 16, 2001 for a 2001–02 fiscal year grant and by January 15, 2002 for a 2002–03 fiscal year grant.

(6) The Department of Education will distribute the grants no later than October 15 in each of the two fiscal years. Any moneys remaining after awarding base grants and needs grants shall be divided per ADM among all small school districts with small high schools and added to the amount of each small school district’s base grant. Any necessary adjustments will be made on May 15 of the fiscal year, with final adjustment to be made in the following year.

(7) The Department of Education will convene a task force, including, but not limited to Department and school district staff, to advise the department on the equitable distribution of funds.

(8) The task force will assign equal weight to the following three criteria for determining the financial needs of the district:

(a) The number of ADM in the small school district with smaller high schools receiving a greater preference;

(b) Whether ADMw in the small school district has declined in the past three years and the degree to which the enrollment is declining;

(c) The ratio of licensed staff to students in the small school district in the previous two years, adjusted to reflect the need for lower staffing ratios in smaller high schools.

(9) In addition, the task force will consider the following criteria in determining the distribution of funds:

(a) The fund balance and percentage of funds available to the small school district at the end of the fiscal year according to the district’s most recent audit. Districts with significant fund balances as compared to annual expenditures may receive lower preference; districts with fund balances greater than 40% of annual expenditures will not be considered;

(b) The resources projected to be available to the small school district from an education service district for the fiscal year. Districts with ESD support greater than \$1,000 per ADMw will receive a lower preference;

(c) Extraordinary circumstances affecting a district’s capacity to provide instructional services; and

(d) The task force will give preference to requests for funding for high school instructional programs.

(10) The State Superintendent of Public Instruction shall resolve any issues arising from the administration of the small high schools grants not specifically addressed by this rule and the Superintendent’s determination shall be final.

(11) This rule will be repealed on June 30, 2003.

Stat. Auth.: ORS 327.013 & SB 519 2001

Stats. Implemented: ORS 327.013

Hist.: ODE 20-2001(Temp), f. & cert. ef. 10-15-01 thru 4-4-02; ODE 30-2001, f. & cert. ef. 12-20-01

581-023-0015

Additional Remote Small Elementary School and Small High School Weightings

(1) Qualifications for remote small elementary school or small high school status for school districts organized in a manner other than 1 through 8 and 9 through 12:

(a) When grades 1–12 are located in the same building or in adjacent buildings, the Department of Education shall consider these schools to be organized on a 1–8 and 9–12 basis for remote small elementary school and small high school correction purposes;

(b) In school districts where grades 1–12 or portions thereof are located in geographically separated buildings, the Department of Education shall consider these schools to be organized for remote small elementary school and small high school correction purposes in the same manner as the school district boards considers these schools to be organized.

(2) The Department shall measure distances for remote small elementary school qualification and calculation of additional

weighted average daily membership based on the closest, reasonable and prudent access point of an elementary school to the closest, reasonable and prudent access point of the nearest elementary school over the shortest practicable route on maintained public roadways.

(3) The additional weighting for each school qualifying as a remote small elementary school or a small high school shall be calculated based on the applicable formula stated in ORS 327.077.

(4) Questions regarding the administration of the remote small elementary school weighting and small high school weighting not specifically addressed by this rule shall be resolved by the State Superintendent of Public Instruction and the Superintendent's determination shall be final.

(5) The provisions of this administrative rule shall apply to the apportionment of the State School Fund for 2011–12 and subsequent years.

Stat. Auth.: ORS 327.125

Stats. Implemented: ORS 327.077 & 327.125

Hist.: 1EB 118, f. 11-28-67, ef. 12-25-67; 1EB 134, f. 6-26-72, ef. 7-15-72; 1EB 211, f. 1-19-76, ef. 2-11-76; 1EB 267, f. & ef. 11-8-77; 1EB 42-1978, f. 10-31-78, ef. 11-1-78; 1EB 1-1979, f. & ef. 1-30-79; 1EB 11-1980, f. & ef. 5-5-80; 1EB 10-1982, f. & ef. 3-24-82; 1EB 20-1982, f. & ef. 11-23-82; EB 6-1996, f. & cert. ef. 4-15-96; ODE 37-2013, f. & cert. ef. 12-18-13

581-023-0018

Resident Enrollment and Resident Average Daily Membership by County Lines

To provide a basis for budgeting purposes and for final distribution of the Common School Fund and the County School Fund to the school districts, the following procedure shall be followed:

(1) Each school district shall report to the Oregon Department of Education the resident county of each student in the district's reports of enrollment, attendance, and membership. The resident county for each pupil shall be the county in which the student resides, regardless of where the student may attend school. Such reports shall be due within 15 days after the close of the respective periods.

(2) The Department of Education will calculate by county the resident average daily membership (ADM — As defined in ORS 327.006) of the joint districts based on the county of residence for each pupil as reported by each district.

(3) By March 15 the Department of Education will certify to each Education Service District (ESD) or county school district the December 31 report of resident ADM by county lines. These data are to be used for purposes of budgeting each district's share of estimated receipts from the Common School Fund and the County School Fund.

(4) By November 1, the Department of Education will certify to each ESD or county school district the June 30 report of resident ADM by county lines. These data are to be used for purposes of final distribution to the districts of the Common School Fund and the County School Fund.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 327.125 & 327.420

Hist.: 1EB 234, f. & ef. 6-18-76; 1EB 12-1981, f. 5-22-81, ef. 7-1-81; ODE 26-2009, f. & cert. ef. 12-10-09

581-023-0019

School Census

(1) By January 1 of each year, the Center for Population Research and Census certifies to the Oregon Department of Education and to the administrative office of each county an estimate of the population of each county between the ages of 4 and 20, as of October 25 of the previous year. This census is used as the basis for the apportionment of the distributable income account of the Common School Fund to the counties by the Division of State Lands, and also as the basis for determining the amount of the County School Fund mandated levy by the administrative office of each county.

(2) In order to satisfy statutory references to "school age children" or "school census," an estimated census for all common (unified and elementary) school districts shall be computed in the following manner:

(a) The Department of Education shall prorate the annual estimated school census of the state to each education service district or county school district in the same proportion as each education service district's or county school district's resident average daily membership (as defined in ORS 327.006) for the previous June 30 bears to the total resident average daily membership of the state. This census is certified by the Department of Education to each education service district or county school district by January 31 of each year;

(b) Each education service district or county district shall then prorate this school census to the common school districts within its jurisdiction according to the plan approved by the Superintendent of Public Instruction prior to January 1, 1973. Such distribution is to be reported by the education service district or county school district to the districts and the Department of Education by March 15 of each year. This district census is used only for satisfaction of the above mentioned statutory references, and is not used for the distribution of any funds.

Stat. Auth.: ORS 326 & 327

Stats. Implemented: ORS 326.355

Hist.: 1EB 234, f. & ef. 6-18-76; 1EB 14-1985, f. 7-3-85, ef. 7-5-85

581-023-0022

Funding for Youth Corrections and Juvenile Detention Education Programs

(1) The following definitions shall apply for purposes of calculating the State School Fund distribution to the Youth Corrections Education Program and Juvenile Detention Education Program:

(a) "Statewide Average General Purpose Grant per ADMw" means the aggregate general-purpose grants for all school districts divided by total ADMw for all school districts;

(b) "ADM" means average daily membership as calculated based on the procedures and definitions in OAR 581-023-0006.

(2) If in any fiscal year the General Purpose Grant cannot be calculated as a result of temporary changes to the State School Fund distribution formula, the General Purpose Grant per ADMw shall be the same amount as in the last fiscal year that this factor was calculated.

(3) The amount of the distribution from the State School Fund shall be calculated using the following formulas:

(a) For the Youth Corrections Education Program, the amount shall be equal to the product of the Youth Corrections Education Program ADM times 2.0 times Statewide Average General Purpose Grant per ADMw.

(b) For the Juvenile Detention Education Program, the amount shall be equal to the product of the Juvenile Detention Education Program ADM times 1.5 times Statewide Average General Purpose Grant per ADMw.

(4) Based on estimates of the distribution calculated in section (3) of this rule, funds shall be transferred to the Youth Corrections and Juvenile Detention Education Program approximately 35 percent on the 15th day of each of the months of July and October, 15 percent on the 15th day of January, and the balance on April 15.

(5) Adjustments to reflect actual Youth Correction Education Program ADM, Juvenile Detention Education Program ADM, and the actual Statewide Average General Purpose Grant per ADMw shall be made on May 15 of the subsequent fiscal year.

Stat. Auth.: ORS 420.405

Stats. Implemented: ORS 327.026

Hist.: EB 9-1995, f. & cert. ef. 4-27-95; EB 6-1996, f. & cert. ef. 4-25-96; EB 8-1997, f. & cert. ef. 6-9-97; ODE 14-1998(Temp), f. & cert. ef. 6-29-98 thru 12-25-98; ODE 12-1999, f. & cert. ef. 6-24-99; ODE 26-2001, f. & cert. ef. 11-7-01

581-023-0035

Budgeting and Accounting for Schools

Rules governing the budgeting and accounting systems for schools and the school systems of accounts are contained in Chapter 2 of the **Program Budgeting and Accounting Manual**, published by the Oregon Department of Education. The State Board of Education adopts this publication to govern budgeting and accounting systems for schools.

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

Stat. Auth.: ORS 326.051 & 327.125

Stats. Implemented: ORS 294.356 & 327.125

Hist.: 1EB 163, f. 2-20-74, ef. 3-15-74; 1EB 234, f. & ef. 6-18-76; 1EB 23-1980(Temp), f. & ef. 9-2-80; 1EB 27-1980, f. & ef. 11-7-80; EB 12-1987, f. & ef. 7-10-87; ODE 5-1999, f. & cert. ef. 1-12-99; ODE 5-2001, f. & cert. ef. 1-29-01; ODE 3-2003, f. & cert. ef. 3-10-03; ODE 2-2007, f. & cert. ef. 1-26-07; ODE 5-2008, f. & cert. ef. 2-22-08

581-023-0036

Factors for when audit initiated by Department

(1) Pursuant to ORS 327.141, the Department of Education shall use the following factors to determine whether to initiate a financial audit or a performance audit of a school district or an education service district:

- (a) Total annual expenditures of district.
- (b) Total full time equivalent employees of district.
- (c) The district's annual financial audit, including any findings it contains.
- (d) Any other audits, reviews or reports indicating inappropriate, inefficient or ineffective operations or business practices at one or more school districts or education service districts.
- (e) A request from the Governor.
- (f) A request from a member or committee of the Oregon Legislature.
- (g) A request from a school district or education service district.
- (h) A request from a member of the public.
- (2) The Department shall weigh these factors when determining whether to initiate an audit.
- (3) The Department shall forward a copy of any audit conducted as provided in ORS 327.141 to:
 - (a) The school district or education service district that is the subject of the audit;
 - (b) The requestor of the audit; and
 - (c) Any other entity that either the Department determines would benefit from review of the audit or that has requested a copy of the audit.

Stat. Auth.: ORS 327.141

Stats. Implemented: ORS 327.141

Hist.: ODE 26-2012, f. 9-13-12, cert. ef. 9-17-12

581-023-0037

Audit Statement of Revenue and Expenditure Accounts by Fund

- (1) Following the end of each fiscal year, each school district shall complete or have completed forms provided by the Department of Education for the purpose of summarizing district revenues and expenditures by fund for the fiscal year ending June 30.
- (2) The data so prepared shall be audited and incorporated as part of the district's financial report.

Stat. Auth.: ORS 327

Stats. Implemented: ORS 327.125 & 327.137

Hist.: 1EB 17-1978, f. 4-21-78, ef. 5-4-78

581-023-0038

Audit Requirements for School Food and Nutrition Services

- (1) Following the end of each fiscal year, each school district participating in the federally funded School Food and Nutrition Services shall complete forms provided by the Oregon Department of Education for the purpose of summarizing district revenues and expenditures of their nonprofit school food service.
- (2) The data included in the form shall be audited and incorporated as part of the district's financial report which is submitted to the Department of Education.
- (3) If a district's food and nutrition services account demonstrates the net cash resources exceeds three months average expenditures, the Department will request a corrective action plan to reduce the excess cash resources.

Stat. Auth.: ORS 326 & 327

Stats. Implemented: ORS 327.137

Hist.: EB 39-1990, f. & cert. ef. 7-10-90

581-023-0040

Approved Transportation Costs for Payments from the State School Fund

- (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) if the school or agency reimburses school districts up to one hundred percent (100%) of incurred transportation costs pursuant to 338.145 or 339.133(4).

(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.

(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 retrofit, as defined in ORS 468A.795, or to replace school buses for the purpose of reducing or eliminating diesel engine emissions, except that these costs may 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) to retrofit or to replace school buses for the purpose of reducing or eliminating diesel engine emissions.

(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 2013–14:

(I) Number of miles @ \$2.18 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 @ \$1.10 per mile for all school activity vehicles having a manufacturers' designed passenger capacity of 20 or less including the driver; or

(ii) For 2014–15:

(I) Number of miles @ \$2.26 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 @ \$1.14 per mile for all school activity vehicles having a manufacturers' designed passenger capacity of 20 or less including the driver.

(iii) For 2015 – 16:

(I) Number of miles @ \$2.34 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 @ \$1.18 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 2016 – 17:

(I) Number of miles @ \$2.42 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 @ \$1.22 per mile for all 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 described in section (4)(a) of this rule, 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 inside the limits 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 inside limit.

(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.]

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013 & 820.100 - 820.120

Hist.: 1EB 177, f. 10-2-74; 1EB 181, f. 1-17-75, ef. 7-1-75; 1EB 209, f. 12-5-75, ef. 1-16-76; 1EB 220, f. 2-17-76, ef. 3-15-76; 1EB 233, f. 6-11-76, ef. 6-18-76; 1EB 4-1978, f. 1-27-78, ef. 1-27-78; 1EB 10-1980, f. & ef. 5-5-80; 1EB 6-1981, f. 3-2-81, ef. 3-3-81; 1EB 4-1982, f. & ef. 2-10-82; 1EB 15-1982, f. 8-4-82, ef. 8-5-82; 1EB 17-1983, f. 11-23-83, ef. 11-25-83; 1EB 1-1985, f. 1-4-85, ef. 1-7-85; 1EB 5-1986, f. 1-30-86, ef. 2-1-86; EB 4-1987, f. & ef. 2-20-87; EB 32-1987, f. & ef. 12-10-87; EB 42-1988, f. & cert. ef. 11-15-88; EB 3-1992, f. & cert. ef. 2-21-92; EB 21-1993, f. & cert. ef. 6-2-93; EB 4-1997, f. & cert. ef. 4-25-97; ODE 9-2000, f. & cert. ef. 4-5-00; ODE 25-2001, f. & cert. ef. 11-7-01; ODE 9-2003, f. & cert. ef. 6-13-03; ODE 10-2006, f. & cert. ef. 2-21-06; ODE 8-2008, f. & cert. ef. 3-21-08; ODE 6-2010, f. & cert. ef. 4-26-10; ODE 22-2011, f. & cert. ef. 12-15-11; ODE 39-2014, f. & cert. ef. 9-3-14; ODE 4-2016, f. & cert. ef. 2-5-16; ODE 46-2016, f. & cert. ef. 11-1-16

581-023-0041

Computation of Net Operating Expenditures

(1) The computation of “net operating expenditures” under ORS 327.006 shall be made as follows, using accounts as herein defined for the General Fund and subject to such items of exclusion as are stated in this rule.

(a) Instruction (K-12, regular school year):

(A) Regular Programs (function 1100 except functions 1113, 1122, 1132, and 1140) — \$____;

(B) Special Programs (function 1200) — \$____;

(C) *Total Approved Instruction* ((a)(A) + (B)). — \$____(a).

(b) Supporting Services:

(A) Students (function 2100) — \$____;

(B) Instructional Staff (function 2200) — \$____;

(C) General Administration (function 2300) — \$____;

(D) School Administration (function 2400) — \$____;

(E) Business (functions 2510, 2520, 2540, and 2570); \$____;

(F) Central (function 2600) — \$____;

(G) *Total Approved Supporting Services* ((b)(A) + (B) + (C) +

(D) + (E) + (F)) — \$____(b).

(c) Subtotal ((a) + (b)) — \$____(c);

(d) Tuition and Services Receipts (revenue code 1310 + revenue code 1940) — \$____(d);

(e) Approved Net Operating Expenditures for Resident Pupils (c) minus (e) (d)) — \$____(e).

(2) The following expenditure items are excluded from the computation:

(a) Co-curricular expenditures, instruction functions only;

(b) All capital outlay expenditures;

(c) **Workforce Investment Act** or ESEA funded expenditures;

(d) Expenditures for programs operated under 343.261; and 343.961.

(e) Expenditures for programs operated under 343.455; and 343.534.

(f) Indian Education funded expenditures.

(3) Approved expenditures by function/object used in the computation shall be restricted to the General Fund:

(4) Approved function and object codes used in the computation are defined in the **Program Budgeting and Accounting Manual**, published by the Oregon Department of Education.

(5) Questions regarding approvable items in the administration of this rule shall be resolved by the State Superintendent of Public Instruction and the Superintendent’s determination shall be final.

(6) The provisions of this administrative rule shall apply to all statutory references to ‘net operating expenditures’. Any change made in the accounting system by the State Board of Education shall be reflected by corresponding adjustments in functions and object codes stated in the rule.

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

Stat. Auth.: ORS 327.125

Stats. Implemented: ORS 327.006(6) & 327.008

Hist.: 1EB 16-1979, f. 11-8-79, ef. 11-9-79; 1EB 22-1980, f. & ef. 7-15-80; 1EB 14-1985, f. 7-3-85, ef. 7-5-85; EB 22-1987, f. 10-16-87, ef. 7-1-88; ODE 23-2001, f. & cert. ef. 11-7-01; ODE 5-2008, f. & cert. ef. 2-22-08

581-023-0060

State Superintendent’s Approval of Bonded Debt for Nonstandard and Conditionally Standard School Districts

The State Superintendent of Public Instruction shall approve additional bonded indebtedness for a nonstandard or conditionally standard school district as described in ORS 328.205 when:

(1) The purpose of the revenues is listed under ORS 328.280(1) and is included in the district’s plan to correct the deficiencies causing the nonstandard or conditionally standard status.

(2) The district demonstrates that in contracting for bonded indebtedness it will not impair or delay its efforts in becoming a standard district.

Stat. Auth.: ORS 328.205

Stats. Implemented: ORS 328.205

Hist.: EB 6-1991, f. & cert. ef. 4-3-91

581-023-0100

Eligibility Criteria for Student Weighting for Purposes of State School Fund Distribution

(1) The following definitions apply to this rule:

(a) “Average Daily Membership” or “ADM” means the membership defined in ORS 327.006(3) and OAR 581-023-0006;

(b) “Days in Session” means number of days of instruction during which students are under the guidance and direction of teachers;

(c) “Department” means the Oregon Department of Education;

(d) “Language Minority Student” means:

(A) Individuals whose native language is not English; or

(B) Individuals who come from environments where a language other than English is dominant; or

(C) Individuals who are Native Americans or Native Alaskans and who come from environments where a language other than English has had a significant impact on their level of English proficiency.

(e) “Superintendent” means the State Superintendent of Public Instruction;

(f) “Weighted Average Daily Membership” or “ADMw” means the ADM plus an additional amount or weight as described in ORS 327.013.

(2) Pursuant to ORS 327.013(7)(a)(A) the resident school districts shall receive one additional ADM or “weight” for children with disabilities who comprise up to 11 percent of the district’s ADM. The Department will calculate the percentage of children with disabilities on the basis of resident counts of students eligible for weighting from the Special Education Child Count and the resident ADM:

(a) To be eligible, a student must be in the ADM of the school district and meet the following criteria:

(A) The student must be eligible for special education having been evaluated as having one of the following conditions: Intellectual disability, hearing impairment including difficulty in hearing and deafness, speech or language impairment, visual impairment, serious emotional disturbance, orthopedic or other health impairment, autism, traumatic brain injury or specific learning disabilities; and

(B) The student must be between the ages 5 and 21 and generate federal funding for purposes of special education.

(b) Districts may apply for an exception to the 11 percent ceiling. Applications are to be made on forms provided by the Department. Upon receipt of the application the Superintendent may conduct a complete review of a district’s special education records. The Superintendent shall develop a process for conducting such reviews which will include the following elements:

(A) Comparison of district claims with those submitted by other districts;

(B) Participation of school district and education service district staff in the review. No district staff shall be asked to review claims submitted by the employing district.

(c) After considering the recommendations of the review committee the Superintendent may allow all or a portion of the requested added weighted ADM over 11 percent;

(d) The Superintendent shall make the determination of approval for funding above the 11 percent limitation. Such determination may be appealed for review by the State Board of Education according to a process established by the Superintendent;

(e) If the review indicates that a district has claimed ineligible special education students, the Superintendent also shall withhold the related federal funds from the district, pursuant to OAR 581-015-2020;

(f) A district must submit an application for an exception to the 11 percent ceiling no later than six months after the close of the year for which payment is being sought. Payments for allowable exceptions shall be made in the following school year as part of the May 15 payment.

(3) Pursuant to ORS 336.640(4), the resident school districts shall receive an additional 1.0 times the ADM of all eligible pregnant and parenting students:

(a) To be eligible, a student must be in the ADM of the resident school district and meet the following criteria:

(A) The student must be identified through systematic procedures established by the district;

(B) The student must be enrolled and receiving services described in ORS 336.640(1)(b) and (d);

(C) The student must have an individualized written plan for such services which identifies the specific services, their providers, and funding resources.

(b) Students counted in section (2) of this rule are not eligible under this section.

(4) Pursuant to ORS 327.013(7)(a)(B), the resident school districts shall receive an additional .5 times the ADM of all eligible students enrolled in an English as a Second Language program. To be eligible, a student must be in the ADM of the school district in grades K through 12 and be a language minority student attending English as a Second Language (ESL) classes in a program which meets basic U.S. Department of Education, Office of Civil Rights guidelines. These guidelines provide for:

(a) Educational Theory and Approach that describes the district’s educational approach (e.g., ESL, transitional bilingual education, structured English immersion, dual language, etc.) for educating English Language Learner (ELL) students that is recognized as a sound approach by experts in the field, or recognized as a legitimate educational strategy to ensure that ELL students acquire English language proficiency and are provided meaningful access to the educational program.

(b) A systematic procedure for identifying students who may need ESL classes, and for assessing their language acquisition and academic needs;

(c) A planned program for ESL and academic development, using instructional methodologies recognized as effective with language minority students;

(d) Instruction by credentialed staff and trained in instructional strategies that are effective with second language learners and language minority students, or by tutors supervised by credentialed staff trained in instructional strategies that are effective with second language learners and language minority students;

(e) Adequate equipment and instructional materials;

(f) Evaluation of program effectiveness in preparing ESL students for academic success in the mainstream curriculum.

(g) Process for transition from ELL Services that include procedures and criteria for determining when students no longer need those services. The criteria shall include:

(A) Achieving at the Advanced level on the State’s English Language Proficiency Assessment (ELPA).

(B) The Advanced level is a culmination of progress demonstrated on the same state proficiency measure over a legitimate period of time.

(5) Students served in the following programs are not eligible for weighting:

(a) Programs funded fully by state funds, programs funded fully by federal funds, and programs funded fully by a combination of state and federal funds;

(b) Private and parochial schools unless placed by the resident district in a registered private alternative program or state approved special education program;

(c) Instruction by a private tutor or parent under ORS 339.035.

(6) No later than January 15 of each year, the designated official for a school district shall submit to the Department a report of students eligible under sections (3) and (4) of this rule. The report shall include the following data for the period October 1 through December 31:

(a) Total days in session for the quarter ending December 31 for the school or program reporting;

(b) Total days membership for the quarter ending December 31 for all students served in eligible programs.

(7) Not later than July 10 of each year, the designated official for a school district shall submit to the Department a final report of students eligible under sections (3) and (4) of this rule. The report shall include the following:

(a) Total days in session during the regular school year for the school or program reporting;

(b) Name of each student;

(c) Total days membership beginning with the first day of instruction for each student and ending with the date of withdrawal from the eligible program or the end of the regular school year, whichever comes first;

(d) Grade level of the student.

(8) School districts must retain supporting documentation for a minimum of two years.

(9) The Department shall perform periodic reviews of the eligibility of students reported for additional weighting. Any funds provided for ineligible students shall be recovered by the Department for redistribution to school districts.

Stat. Auth.: ORS 327.013 & 327.125

Stats. Implemented: ORS 327.013 & 327.125

Hist.: EB 31-1992, f. & cert. ef. 10-14-92; EB 6-1994, f. & cert. ef. 4-29-94;

ODE 20-2008, f. & cert. ef. 6-27-08; ODE 12-2011, f. & cert. ef. 10-31-11

581-023-0102

Poverty Eligibility Determination for Purposes of State School Fund Distribution

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

(a) “ADM” means Average Daily Membership as defined under ORS 327.006 and OAR 581-023-0006.

(b) “Census Bureau” means the United State Census Bureau.

(c) “SAIPE” means the Small Area Income Poverty Estimate published by the Census Bureau every year and available to the public on the Census Bureau’s website at: <http://www.census.gov/did/www/saipe/>.

(2) Pursuant to ORS 327.013(1)(c)(A)(v)(i) the Department of Education will determine poverty using Census Bureau data and ADM data from the school districts.

(3) The Department will obtain SAIPE data published on the Census Bureau website for all Oregon school districts annually as it is released.

(4)(a) The Department will divide the concurrent year’s ADM data by the total children ages 5 to 17 as reported in the SAIPE data.

(b) For those districts where the ratio of the ADM divided by total children ages 5 to 17 as reported in SAIPE data is greater than 100%, the Department will reduce the ratio to 100%.

(5) The Department will multiply the population ages 5 to 17 in families in poverty as reported by the SAIPE by the percentage calculated above.

(6) The Department will round the resulting product to two decimal places.

(7) The Department will use the previous year’s SAIPE data to calculate the final poverty weights for the current year pursuant to ORS 327.013(1)(c)(A)(v).

Stat. Auth.: ORS 327.013 & 327.125

Stats. Implemented: ORS 327.013

Hist.: ODE 9-2014, f. 2-19-14, cert. ef. 7-1-14; ODE 14-2016, f. & cert. ef. 2-5-16; ODE 48-2016, f. & cert. ef. 11-1-16

581-023-0104

Reimbursement to School Districts for Children with High Cost Disabilities

(1) Consistent with the provisions of this rule, a school district may apply to the Department for reimbursement from the high cost disability fund when combined district and ESD general fund expenditures for special education and related services for any student eligible and served under IDEA exceed \$30,000 in a fiscal year.

(2) To be eligible for the reimbursement, the school district shall have:

(a) Determined that the student is eligible for special education and related services under one of the disability categories set forth in OAR 581-015-2130 through 581-015-2180;

(b) Provided services to the student on the basis of the student’s current or previous individualized education program in effect during the fiscal year; and

(c) Submitted a timely application as per Department requirements.

(3) The Department shall only distribute the reimbursement to a school district for:

(a) Expenditures exceeding \$30,000 for special education and related services that are required by the individualized education program of an individual student with a disability. Qualifying expenditures include those incurred by the school district and those incurred by the ESD through the resolution process.

(b) Transportation expenditures, exclusive of local, state and federal reimbursements.

(c) Special education general fund expenditures, exclusive of federal sources, as set forth in the Maintenance of Effort requirements of the federal IDEA. District and school level administrative expenditures (e.g. salaries) may be included by first averaging the expenditures across all the special education students enrolled as identified on the most recent SECC, then applying the average to the student for whom the district is requesting reimbursement.

Similarly, teacher and educational assistant salaries must be averaged across all the special education students for whom the teacher or assistant provided instruction during the school year.

(4) Expenditures not eligible for reimbursement include:

(a) Regional Program expenditures;

(b) Reimbursed Medicaid expenditures;

(c) Expenditures associated with facility operations and maintenance (e.g., heat, electricity, custodial services)

(5) In December of each year, school districts will provide the Department with an estimate of the aggregate number of students eligible for reimbursement from the High Cost Disabilities Fund and the total estimated aggregate amount of reimbursable expenditures, including ESD expenditures that will be incurred during the school year. As requested by the Department, districts will also report during the school year, updated information listing eligible students, SDID, names, estimated expenditures, and other information as requested.

(6) A school district may submit an application for each student identified who meets the criteria set forth in section (2) and (3) of this rule.

(7) The Department shall provide school districts with an application that shall require documentation that identifies all the school districts and ESD’s expenditures for each student. Additional supporting documentation, subject to ODE review, may include a copy of the contract(s) between the school district and the service provider(s), invoices reflecting actual expenses, and any additional documentation of expenditures incurred as determined by the Department. These documents must be maintained at the District for at least three years after the submission of the student-level data.

(8) The Department shall develop and implement a process for reviewing applications.

(9) The Department shall prorate the distribution of funds for each school year to eligible school districts if sufficient funds are not available.

(10) Based on the outcome of section (8), the Department will exclude from reimbursement those expenditures deemed excessive, ineligible or unsubstantiated.

(11) Funds will be distributed to districts on or before May 15 for the current fiscal based on expenditure estimates. Adjustments will be made May 15 of the following year based on audited data and Department reviews of district records.

(12) The decision of the Department regarding reimbursement of costs pursuant to this rule shall be final.

Stat. Auth.: ORS 326.051, 327.348

Stats. Implemented: ORS 327.348

Hist.: ODE 6-2004, f. & cert. ef. 3-15-04; ODE 32-2007, f. & cert. ef. 12-12-07

581-023-0106

Calculation of Extended ADMw for Charter Schools

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

(a) “ADM” means average daily membership as defined in ORS 327.006(3) and OAR 581-023-0006 to 581-023-0008.

(b) “Cease to operate” means the closure of a charter school due to any of these reasons: closure or dissolution of charter school or termination or nonrenewal of charter.

(c) “Extended ADMw” means as that term is described in ORS 327.013(1)(c).

(d) “Public Charter Schools” means as that term is defined in ORS 338.005.

(2) A school district’s general purpose grant per extended ADMw shall be calculated as follows:

(a) Estimated general purpose grant per extended ADMw will be based on the latest estimates published by the Department of Education at the time of calculation.

(b) Final general purpose grant per extended ADMw will be based on the estimates used for the May reconciliation as published by the Department of Education.

(3) School districts that have a public charter school which ceases to operate shall receive funding equal to the district’s

general purpose grant per extended ADMw multiplied by five (5) percent of the charter school's previous year's ADM as follows:

(a) School districts shall receive an estimated amount of funding as calculated by section (2)(a) of this rule in the year immediately after the charter school ceases to operate. The funding will be distributed by the Department of Education outside of the State School Fund payment cycle.

(b) The Department of Education shall reconcile the amount of funds a district received in subsection (a) above as follows:

(i) The Department will determine the final ADM of the charter school using the ADM reported in the annual ADM collection for the year in which the charter school was last open.

(ii) The Department will use the final general purpose grant per extended ADMw as determined by section (2)(b) of this rule.

(iii) The Department will reconcile the amount calculated in subsection (3)(a) of this rule with the final calculation based on data determined by subsections (b)(i)–(ii).

(iv) If the Department owes the school district additional funds as a result of May reconciliation, the Department will pay the school district outside of the State School Fund payment.

(v) If a school district owes the State School Fund money, the Department will invoice the school district for the amounts owed.

(4) School districts that had a public charter school cease to operate following the 2014-15 school year are eligible to receive additional funding to assist with expenses incurred in closing the public charter school.

(5) The maximum additional funding that a school district is eligible to receive is based on three (3) percent of the public charter's ADM multiplied by the school district's general purpose grant per extended ADMw using the following data:

(a) The ADM for the public charter school as reported by the school district in the last collection period for the 2014-15 school year.

(b) The final general purpose grant per extended ADMw as reported under section (2)(b) of this rule.

(6) School districts that wish to receive these funds must submit quarterly reports for 2015–16 that:

(a) Follow the template created by the Department.

(b) State the date of the expense.

(c) Give a description of the expense.

(d) Provide an explanation of how the expense related to the closure of the public charter school.

(e) Provide the amount of the expense.

(7) The Department shall review the quarterly reports and approve or deny the expense based on whether the expense is reasonably related to the closure of the public charter school.

(8) The Department will reimburse school districts for all approved expenses up to the maximum additional funding for that district.

(9) If there are additional funds remaining for that district after the end of the 2015-16 school year, the school district may submit yearly expense reports to receive additional reimbursement.

(10) The yearly expense reports will follow the same format set forth in section (6) of this rule.

(11) School districts may submit yearly reports for the 2016-17, 2017-18, and 2018-19 school years.

(12) At the end of the 2018-19 school year, any funds remaining will be redistributed to the State School Fund for distribution in the 2019-20 school year.

Stat. Auth.: ORS 327.125 & 338.025

Stats. Implemented: ORS 327.013, 327.077, 338.155 & 338.165

Hist.: ODE 18-2012, f. 6-8-12, cert. ef. 6-11-12; ODE 17-2016, f. & cert. ef. 3-22-16

581-023-0112**School Improvement Fund**

(1) For purposes of this rule, "School Improvement Fund" means the fund established by ORS 327.294.

(2) Each fiscal year the Department of Education shall award grants from the School Improvement Fund to school districts, education service districts, the Youth Corrections Education Program and the Juvenile Detention Education Program for activities that relate to increases in student achievement, including:

(a) Early childhood support including establishing, maintaining or expanding quality Pre-kindergarten programs and full-day kindergarten programs;

(b) Class size reduction with an emphasis on the reduction of kindergarten through grade three class sizes;

(c) Increases in instructional time including summer programs and before and after school programs;

(d) Mentoring, teacher retention and professional development;

(e) Remediation, alternative learning and student retention;

(f) Services to at-risk youth;

(g) Programs to improve a student achievement gap between student groups identified by culture, poverty, language and race and other student groups;

(h) Vocational education programs;

(i) Literacy programs;

(j) School library programs; and

(k) Other research-based student improvement strategies approved by the State Board of Education.

(3) Grant applications for each school district, education service district and for the Youth Corrections Education and Juvenile Detention Education Programs shall identify the goals of the district or program for increases in student performance for the year and shall outline how the district or program plans to use the resources provided from the Fund to reach the performance goals. The Department shall evaluate the grant applications based on the following criteria:

(a) The goals set by the school districts, education service districts and programs for increases in student performance;

(b) The evidenced-based activities identified to meet the stated goals;

(c) Consistency with the district's Continuous Improvement Plan;

(d) The quantifiable performance measures for demonstrating progress on one or more Key Performance Measures adopted by the 2007 Legislative Assembly and identified by the Department; and

(e) The evaluation process identified in the application that will be used by the district or program to determine if the district or program is effective in the implementation of the activities for which the district or program is requesting funds.

(4) The amount of each grant for a school district, education service district or program shall be determined based on ORS 327.294 and 327.297. After the initial determination of the grant amount for each district or program, the Department may adjust the grant amount based on additional data and information received by the department.

(5)(a) Each school district, education service district and program shall account for the grant amounts it receives separately, and shall apply these amounts to pay for activities described in the district or program's application. School districts, education service districts and programs may only expend grant funds on approved activities identified in the grant application of the district or program.

(b) School districts and education service districts may choose to budget grant funds in the district's General Fund or a Special Revenue Fund. Programs may choose to budget these funds in a Special Revenue Fund. The Department will establish an Area of Responsibility code in the Program Budgeting and Accounting Manual for School Districts and Education Service Districts in Oregon to identify all expenditures for the School Improvement Fund. School districts and education service districts and programs

shall use the Area of Responsibility code to identify all expenditures for the School Improvement Fund.

(c) School districts, education service district and programs may carry over grant funds received in a fiscal year until the end of the next fiscal year. If a district or program has not expended all of its grant funds prior to the end of the carry over period, the district or program shall return the unused portion of the grant funds to the Department.

(d) If the department determines that a school district, education service district or program did not expend grant funds in accordance with ORS 327.297 or this rule, the Department may deny a subsequent request for grant funds from the district or program and may require the district or program to repay grant funds received by the district or program for any year.

(e) The Department shall deposit any moneys it receives under this section in the School Improvement Fund and distribute those moneys as part of the grants awarded from the fund.

(6) In accordance with ORS 334.177 and the Program Budgeting and Accounting Manual for School Districts and Education Service Districts in Oregon, an education service district may transfer grant funds to component school districts for activities, as identified in the grant application of the education service district, for which the education service district received grant funds. The education service district shall report to the Department about how much grant funds were transferred and shall report improvement data relating to the activities.

(7) In accordance with ORS 327.297 and the Program Budgeting and Accounting Manual for School Districts and Education Service Districts in Oregon, a school district may transfer grant funds to a public charter school for activities, as identified in the grant application of the school district, for which the school district received grant funds. The school district shall report to the Department about how much grant funds were transferred and shall report improvement data relating to the activities.

(8) The State Superintendent of Public Instruction shall resolve any issues arising from the administration of the School Improvement Fund grants not specifically addressed by this rule and the Superintendent's determination shall be final.

Stat. Auth.: ORS 327

Stats. Implemented: ORS 327.290, 327.294, 327.297

Hist.: ODE 18-2001(Temp), f. & cert. ef. 8-15-01 thru 1-02-02; ODE 31-2001, f. & cert. ef. 12-20-01; ODE 24-2007(Temp), f. & cert. ef. 10-26-07 thru 4-23-08; ODE 12-2008, f. & cert. ef. 4-21-08; ODE 17-2011, f. 12-15-11, cert. ef. 1-1-12

581-023-0220

State Education Lottery Bonds

(1) Distribution of State Education Lottery Bond proceeds:

(a) To be distributed to school districts as State Education Project grants in each year of biennium as soon as practicable after proceeds from bond sale becomes available;

(b) Each school district's State Education Project grant shall be equal to:

(A) The district's extended weighted average daily membership (extended ADMw), for the year ending June 30, of the year of distribution; times

(B) The amount available for the grants divided by statewide extended ADMw for the year ending June 30, of the year of distribution.

(2) School districts shall account for the amounts received as State Education Project grants including interest earnings on the grants as follows:

(a) As a separate fund limited to State Education Project grants only; or

(b) As a subaccount of an existing fund.

(3) Proceeds from the State Education Projects grant shall be expended for the following purposes:

(a) Acquisition, construction, improvement, remodeling, maintenance or repair of public school facilities in Oregon, including land;

(b) Site preparation costs;

(c) Permanent or portable buildings and equipment;

(d) Telecommunications equipment;

(e) Computers;

(f) Software and related technology;

(g) Textbooks;

(h) Library books;

(i) Furniture and furnishings;

(j) Vehicles;

(k) Costs of planning for bond issues and capital improvements;

(l) Payment of debt service on obligations, other than general obligation bonds, issued for such projects; or

(m) Instructional training.

(4) Proceeds may be held in reserve and be expended in future years for purposes listed in section (3).

Stat. Auth.: ORS 327.731

Stats. Implemented: ORS 327.731

Hist.: ODE 17-1998, f. & cert. ef. 10-12-98; ODE 5-2000, f. & cert. ef. 2-1-00

581-023-0230

Facility Grant

(1) For purposes of this rule:

(a) "New School Building" means newly constructed school buildings, additions to existing school buildings, newly remodeled or converted structures and newly acquired premanufactured structures if those buildings or structures are to be used for instructing students. Newly remodeled structures may not have been used as classrooms in the prior five school years.

(b) "Construction Cost" means the cost of construction or remodeling excluding cost of land acquisition and cost of equipment not intrinsic to the structure or, for premanufactured structures, the purchase price excluding interest. Costs of site preparation and improvements, project management, and mandated utility and access upgrades may be included. Construction cost does not include structures such as athletic fields, stadiums, pools or any other structure whose primary purpose is not the instruction of students.

(2) A school district is eligible to receive a facility grant for a new school building in the year the new school building is first used for instruction for more than half of the district's regular school year or the following year.

(3) Facility grant shall equal a percentage of new school building construction cost as determined by statute. If the total amount to be distributed as facility grants exceed the limitation set in statute, the Department of Education shall prorate the amount of funds available for facility grants among those school districts that qualified for a facility grant. The proration percentage shall be adjusted to be the same for each year of the biennium.

(4) A school district may not use the portion of the State School Fund grant that is attributable to the facility grant for capital construction costs.

(5) Facility grant applications must be received at the Department of Education no later than February 15 of the school year following the school year in which the new school building is first eligible for the facility grant. The application shall include a summary of the construction cost as well as a copy of the parts of the contract(s) documenting the construction cost or purchase price.

(6) The Department of Education will distribute the facility grant with the March 15 State School Fund payment. Any necessary adjustments will be made on May 15, with final adjustment to be made in the second year.

(7) The State Superintendent of Public Instruction shall resolve any issues arising from the administration of the facility grant not specifically addressed by this rule and the Superintendent's determination shall be final.

Stat. Auth.: ORS 327.125

Stats. Implemented: ORS 327.013 & 327.008

Hist.: ODE 6-2000, f. & cert. ef. 2-1-00; ODE 10-2003, f. & cert. ef. 6-13-03

581-023-0240

School Revenue Forecast

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

(a) “ADMw” means weighted average daily membership or the ADM plus an additional amount, as set forth in ORS 327.013.

(b) “Extended ADMw” means ADMw or ADMw of the prior year, whichever is greater.

(2) The Department of Education will provide each school district and education service district with revenue forecasts for the ensuing three years annually in January.

(3) These forecasts will be based on a forecast from the Department of Administrative Services in December of each year of a statewide allowable growth factor of general operating revenue per extended ADMw that can reasonably be expected for each of the next three fiscal years.

(4) The Department of Education will calculate — based on current law, estimates of ADMw, and of other state school fund formula factors — the distribution of those revenues to each education district.

(5) K–12 education districts should use these forecast revenues in developing their budgets and other considerations for expenditure levels, including collective bargaining, contractual commitments, and program changes.

(6) Districts shall report by letter to the Department of Education each year by March 31 conditions that do not allow them to operate within the forecast revenue for the ensuing year. Such conditions may include:

(a) Projected changes in the costs of employee salaries, benefits, supplies, purchased services, capital outlay, or other factors;

(b) Changes in economic or demographic conditions within the district;

(c) Changes in revenues outside state school funding;

(d) Other factors.

Stat. Auth.: ORS 327, Gov. Ex. Order

Stats. Implemented: ORS 327

Hist.: ODE 24-2001, f. & cert. ef. 11-7-01

581-023-0250

English Language Learner Revenue and Expenditure Report Criteria

(1) For purposes of determining budget transparency for the spending of moneys received by school districts as provided by ORS 327.013 (1)(c)(A)(ii) for students in average daily membership eligible for and enrolled in an English Language Learner (ELL) program under ORS 336.079, or any ELL program identified by a school district.

(a) ELL Revenues reporting shall be:

(A) Reconciled State School Fund (SSF) weights for Average Daily Membership weighting (ADMw) received by school districts as provided by ORS 327.013(1)(c)(A)(ii) for the school year in review.

(B) The total ELL ADMw multiplied by the school district’s reconciled SSF General Purpose Grant per Extended ADMw for the same school year in review.

(b) ELL Expenditure reporting shall:

(A) Include only Fund 100 expenditures

(B) Include Function 1291 — English Language Learner Programs

(C) Include Area of Responsibility 280 — To be used with functions other than 1291 to identify supplemental costs for ELL and Limited English Proficiency programs

(D) Include additional Function codes as established by the State Board for the purposes of this report

(E) Include all of the ELL expenditure reporting for the same year as the ELL revenue reporting

(c) Report timeline

(A) Department of Education’s ELL Revenue and Expenditure Report shall be posted on ODE’s website in July of each year. The supporting data used shall be for the preceding school year (E.g., the 2015-16 school year report would be compiled in July 2017)

Stat. Auth.: Sec. 1, ch. 604, OL 2015 (Enrolled HB 3499)

Stat. Implemented: Sec. 1, ch. 604, OL 2015 (Enrolled HB 3499)

Hist.: ODE 6-2016, f. & cert. ef. 2-5-16

STANDARDS FOR EDUCATION SERVICE DISTRICTS

581-024-0190

Legal Name, Common Name and Annexation

(1) The initial name of a regional education service district for the purposes of section 2(6), chapter 611, Oregon Laws 1995, shall be a unique name agreed upon by the existing board or boards of directors within the region. The agreement shall be evidenced by a resolution or resolutions signed by a majority of the members of each existing board of directors. The resolution or resolutions shall be submitted to the Department of Education not later than January 10, 1996. If the resolution or resolutions are not submitted to the Department by January 10, 1996, the initial name of the regional education service district shall be the acronym ESD, followed by the word “Region” and the corresponding region number specified in ORS 334.020 (1995 Replacement Part).

(2) For regions that contain more territory than a single education service district prior to the board’s order of annexation, the surviving district of the annexation for the purposes of section 2(2), chapter 611, Oregon Laws 1995, shall be the district agreed upon by all of the existing boards of directors within the region. The agreement shall be evidenced by a resolution or resolutions signed by a majority of the members of each existing board of directors. The resolution or resolutions shall be submitted to the Department of Education not later than January 10, 1996. If the resolution or resolutions are not submitted to the Department by January 10, 1996, the surviving district shall be the district whose taxing authority, except as to taxes permitted under section 11(3), Article XI of the Oregon Constitution, equals or most closely approximates but is not less than the sum of the tax base amounts for each of the education service districts in the region, as otherwise determined under section 11(2), Article XI of the Oregon Constitution.

Stat. Auth.: ORS 334.020

Stats. Implemented: ORS 334.020

Hist.: EB 29-1995, f. & cert. ef. 12-11-95; ODE 20-2002, f. & cert. ef. 8-2-02, Renumbered from 581-024-0200

581-024-0191

ESD Merger, General Requirements

(1) Two or more ESDs may merge to form one ESD. To merge, each merging ESD must present to the State Board of Education a petition indicating the intent to merge. An ESD may obtain a petition in either of the following two methods:

(a) The boards from at least two-thirds of the component school districts in each ESD proposed for merger, representing at least a majority of the students included in the average daily membership of the ESD, must present resolutions to the ESD board supporting the merger. Average daily membership for this purpose must be determined using data from the previous school year; or

(b) The ESD boards proposed for merger mutually consent to the merger and by majority vote of each board approve the petition.

(2) When the State Board of Education receives from the ESDs that are proposed for merger, petitions for merger that have been approved under either of the methods established in Section 1 of this rule, the State Board must review the petitions. Within 15 days following the State Board meeting when the petitions are reviewed the State Board must determine the date for a public hearing and notify the boards of each ESD proposed for merger of the date of the hearing.

(3) The State Board must ensure that notice is provided under the provisions of ORS 330.400.

(4) The State Board must ensure that hearings are conducted in each ESD proposed for merger to discuss the proposals contained in the petitions, including the effect of the proposed merger. Any resident of the affected districts may provide testimony on the proposed merger.

(5) The Board will review the fiscal and programmatic impact of the proposed merger in determining feasibility as required in section (6) of this rule.

(6) Following the hearings, if the State Board determines that the proposed merger is feasible, the Board must order the proposed merger based on the proposals contained in the petitions.

(7) The new ESD will come into existence effective May 31 of the year following the order of the State Board issued under section (6) of this rule.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 334.710 - 334.770 (2001 OL Ch. 518)

Hist.: ODE 20-2002, f. & cert. ef. 8-2-02; ODE 28-2008, f. 10-23-08, cert. ef. 10-24-08

581-024-0192

Establishment of Zones for New ESD

(1) Following the issuance of an order by the State Board of Education to join two or more ESDs together, the chairperson from the board of the most populous merging ESD must call a meeting of newly formed joint board, which must include all members of the boards of all merging ESDs. The joint board shall divide the newly formed ESD into at least seven, but no more than eleven zones.

(2) The zones should be as nearly equal in population as practicable.

(3) The joint board must, if possible, establish the zones so that each county represented in the newly formed ESD, if the majority of the land area of the county lies within the boundaries of the newly formed ESD, has at least one member on the new board.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 334.710 - 334.770 (Ch. 518 OL 2001)

Hist.: ODE 20-2002, f. & cert. ef. 8-2-02

581-024-0193

Election of Board of New ESD

Within 90 days following the establishment of the zones as required in OAR 581-024-0202, the joint board must call for a special election in the new ESD to elect directors representing each of the newly established zones.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 334.710 - 334.770 (Ch. 518 OL 2001)

Hist.: ODE 20-2002, f. & cert. ef. 8-2-02

581-024-0205

Definitions

The following definitions apply to OAR 581-024-0191 through 581-024-0310 unless otherwise indicated by context.

(1) “ADM”: means the “ADM” means the average daily membership as defined in ORS 327.006.

(2) “Annual Report”: a comprehensive document Submitted to the Department as required by OAR 581-024-0208 and 581-024-0226.

(3) “Board”: State Board of Education.

(4) “Component” or “component school district”: a school district whose administrative office is within the boundaries of the district.

(5) “Core services”: major categories of services that districts must provide that include services for children with special needs, technology support, school improvement, and administrative and support. Other services may be provided if approved in a Local Service Plan.

(6) “Core service goals”: The goals of a district in providing core services are to: improve student learning; enhance the quality of instruction; provide professional development to component school district employees; provide students equitable access to resources; and maximize operational and fiscal efficiencies for component school districts.

(7) “Department”: Oregon Department of Education.

(8) “District”: an education service district.

(9) “District Board”: an education service district board.

(10) “ESD”: an education service district as defined in ORS 334.003.

(11) “Entrepreneurial Services”: services and facilities provided by an ESD to noncomponent school districts, other public entities, non profit or private entities pursuant to conditions cited in ORS 334.185. The ESD provides the services or facilities with a motivation to provide services or facilities that are expected to result in benefits to the ESD and its component school districts. The benefits may be monetary, increased provision of service delivery to component school districts, intellectual property, or some other benefit. The term “entrepreneurial” does not apply to services an ESD is providing to the State of Oregon, or services provided on a cost-recovery basis.

(12) “Local service Plan”: the plan developed and adopted by the district pursuant to ORS 334.175 and OAR 581-024-0285.

(13) “Noncomponent”: a school district whose administrative office is outside the boundaries of the education service district.

(14) “Nonstandard district”: a district that has not met the provisions of division 024 of chapter 581 of Oregon Administrative Rules, Chapter 334 of Oregon Revised Statutes, or other applicable rules and statutes to which districts are required to comply.

(15) “Performance measures”: procedures designed and administered by a district to determine component school districts’ satisfaction with the quality of ESD services they receive. The performance measures are to be published by the District in the Local Service Plan.

(16) “Public Entity”: a unit of local, state, or federal government.

(17) “Private entity”: not a unit of local, state, or federal government and includes, but is not limited to, not-for-profit or business organizations.

(18) “School Improvement Fund”: means the fund established in ORS 327.294.

(19) “Sexual orientation”: means an individual’s actual or perceived heterosexuality, homosexuality, bisexuality or gender identity, regardless of whether the individual’s gender identity, appearance, expression or behavior differs from that traditionally associated with the individual’s sex at birth.

(20) “Standard District”: a district having met the provisions of division 024 of chapter 581 of Oregon Administrative Rules, Chapter 334 of Oregon Revised Statutes, and other applicable rules and statutes to which ESDs are required to comply.

(21) “Superintendent”: State Superintendent of Public Instruction.

Stat. Auth.: ORS 334

Stats. Implemented: ORS 334.125

Hist.: IEB 265, f. & ef. 8-22-77; IEB 4-1985, f. 1-4-85, ef. 7-1-85; EB 10-1994, f. & cert. ef. 8-16-94; ODE 13-2005(Temp), f. & cert. ef. 12-29-05 thru 6-1-06; Administrative correction 7-20-06; ODE 13-2008, f. & cert. ef. 5-23-08; ODE 28-2008, f. 10-23-08, cert. ef. 10-24-08

581-024-0206

Powers and Duties

Pursuant to ORS 334.125, the district board is authorized to transact appropriate business and is required to perform certain duties.

(1) Every district shall comply with the statutes and rules governing the transaction of public business to include directives on budgeting and expenditures.

(2) Every district shall comply with Board adopted administrative rules and applicable statutes.

(3) The district board shall perform all duties required by law, including but not limited to those identified in ORS 334.125(3) as follows:

(a) Distribute school funds as it is empowered to apportion. Distribution shall be done in a timely and accurate manner;

(b) Conduct of audits requiring the district to assist component school districts to meet budgeting, accounting and audit requirements (OAR 581-024-0265), to serve as a public depository for just completed audits and maintain past audit reports for 20 years;

(c) Serve as district boundary board as identified in ORS 330.081-330.310 and OAR 581-024-0252;

(d) Prepare an annual operating budget in accordance with the local budget section of Chapter 294 of ORS, the local Budget Law,

and the chart of accounts contained in the program Budget and Accounting Manual as adopted by the State Board of Education and levy taxes as required or permitted by law.

(e) Contract bonded indebtedness in the manner authorized by statute. Bonds are to be issued pursuant to ORS 328.205 to 328.295 and other laws applicable to the issuance of bonds; and

(f) Creating a county education bond district under ORS 328.304 from a county within the district

(g) Review periodically with component school districts, their operations, and submit to the component school districts plans that would achieve economies and efficiencies through consolidation of various operations of all or some of the component school districts. The district and its component school districts shall submit an annual report to the Board on the effectiveness of the consolidation of operations.

(4) Districts must comply with the requirements to develop, adopt and approve a Local Service Plan as set out in ORS 334.175, and OAR 581-024-0285. The district board must adopt the local service plan and the component district boards must approve the Local Service Plan by resolution by March 1 of each year.

Stat. Auth.: ORS 334.217

Stats. Implemented: ORS 334

Hist.: EB 16-1994, f. & cert. ef. 11-14-94; ODE 22-2002, f. & cert. ef. 10-15-02; ODE 13-2005(Temp), f. & cert. ef. 12-29-05 thru 6-1-06; Administrative correction 7-20-06; ODE 28-2008, f. 10-23-08, cert. ef. 10-24-08

581-024-0208

Mission, Roles and Goals

(1) Each district shall provide regionalized core services to component school districts as provided in ORS 334.175 (2). Services must be approved by the component school district boards and the district board, and be included in the district's Local Service Plan. The goals of these services shall be to: improve student learning, enhance the quality of instruction, provide professional development to component school district employees, provide students equitable access to resources, and maximize operational and fiscal efficiencies for component school districts (334.175 (1)(a)-(f))

(2) In accordance with ORS 334.005 the mission and roles of the districts are as follows:

(a) The mission of education service districts is to assist school districts and the Department of Education in achieving Oregon's educational goals by providing equitable, high quality, cost-effective and locally responsive educational services at a regional level.

(b) An education service district plays a key role in:

(A) Ensuring an equitable and excellent education for all children in the state;

(B) Implementing the Oregon Education Act for the 21st Century;

(C) Fostering the attainment of high standards of performance by all students in Oregon's public schools; and

(D) Facilitating inter-organizational coordination and cooperation among educational, social service, health care and employment training agencies.

(c) An education service district's role is one of leadership and service. Education service districts shall maintain the distinction between their role as service organizations and the regulatory role of the Department of Education and other agencies.

(d) To ensure that a district is responsive to its component school districts a Local Service Plan must be developed and adopted by the district board, and approved by component school district boards through the resolution process as provided in ORS 334.175(5)(a)(b). The district should consider a variety of flexible service delivery models.

(e) An education service district shall submit an Annual Report to the Department by June 30 of each year on forms provided by the Department. The Annual Report shall be a comprehensive document which includes a Local Service Plan, a Review of Component Districts' Operations and an ESD Self-Appraisal.

(f) An education service district shall remain accountable to:

(A) The public at large;

(B) The component school districts; and

(C) The State Board of Education.

Stat. Auth.: ORS 334.005 & 334.217

Stats. Implemented: ORS 334.125

Hist.: EB 10-1994, f. & cert. ef. 8-16-94; ODE 22-2002, f. & cert. ef. 10-15-02; ODE 13-2005(Temp), f. & cert. ef. 12-29-05 thru 6-1-06; Administrative correction 7-20-06; ODE 28-2008, f. 10-23-08, cert. ef. 10-24-08

581-024-0210

Administration of the Standardization Requirements

(1) The State Board of Education by adopting Oregon Administrative Rules establishes standards to determine the adequacy of services and facilities provided by an education service district. In establishing these standards the Board shall consider the most economic method of providing services and facilities, the quality of the services and facilities according to the best educational standards, and the needs of the students.

(2) The standards include rules in division 024 of chapter 581 of Oregon Administrative Rules, Chapter 334 of Oregon Revised Statutes, and other applicable rules and statutes to which ESDs are required to comply. The board requires substantial compliance with all applicable state and federal statutes and rules.

(3) The evaluation for compliance shall be conducted through a review of the Local Service Plan/Annual Report. In addition, on-site evaluations of districts may be conducted periodically as determined by the needs or interests of the Department. Evaluation teams named by the Department shall use the Local Service Plan/Annual Report, district records, and results from on-site evaluations in determining the degree to which the standards are met.

(4) The Department shall use rules in division 024 of chapter 581 of Oregon Administrative Rules, other applicable rules and statutes, and the district's Local Service Plan/Annual Report to identify specific areas of an ESD's operation to be evaluated and reported on during an on-site visit. The district will be notified of the areas to be evaluated and the dates of the visit at least 90 days prior to an on-site visit. The district shall prepare exhibits that document its activities related to the areas to be evaluated

(5) The on-site visit will be conducted by a team lead by a Department staff person with additional members from the Department, other districts and component school districts. The size of the team shall be determined by the Department in accordance with the areas to be reviewed and the complexity of the ESD's programs, services and operations.

(6) The team leader shall, within 30 days of the visit, present to the district a draft report of the team's findings. The district's response must be received by the Department not later than 30 days after the district's receipt of the draft report.

Stat. Auth.: ORS 334.217

Stats. Implemented: ORS 334.125

Hist.: 1EB 237, f. & ef. 7-9-76; 1EB 265, f. & ef. 8-22-77; 1EB 4-1985, f. 1-4-85, ef. 7-1-85; EB 16-1994, f. & cert. ef. 11-14-94; ODE 13-2005(Temp), f. & cert. ef. 12-29-05 thru 6-1-06; Administrative correction 7-20-06; ODE 28-2008, f. 10-23-08, cert. ef. 10-24-08

581-024-0215

Assignment of Standardization Classification

(1) The district's designation as standard, conditionally standard or nonstandard is determined by the State Superintendent of Public Instruction and is based on the district's compliance with the rules set out in division 024 of chapter 581 of the Oregon Administrative Rules and other applicable rules and statutes.

(2) The Superintendent will review a district's compliance with standards as part of a comprehensive, regular review of the district, or may review a district in response to a public complaint alleging noncompliance with one or more of the standards, or upon the Superintendent's own initiative at any time as may be necessary to ensure compliance with the standards.

(3) During a review, the district shall cooperate with the Superintendent and provide any and all evidence the Superintendent considers necessary for the review. If as a result of a review of the district by the Superintendent it is determined that the district does not comply with one or more of the standards, the Superintendent

will notify the district of the initial determination of noncompliance and give the district 15 days to respond.

(4) If after reviewing the district's response, the Superintendent determines that the district is in compliance with all standards, the Superintendent will within 15 days from the receipt of the district's response designate the district as standard.

(5) If after reviewing the district's response, the Superintendent determines that the district is not in compliance with one or more standards, the Superintendent will within 15 days from the receipt of the district's response designate the district as nonstandard and require from the district a plan to correct all deficiencies. The district will have 30 days to provide the Superintendent with the plan. The Superintendent may accept, reject or modify the plan within 30 days from the receipt of the district's plan and will order the district to comply with the plan as approved. The district will have 180 days from the approval of the plan to correct all identified deficiencies.

(6) If a plan is not submitted to the Superintendent within 30 days, the Superintendent will designate the district nonstandard.

(7) When a plan to correct deficiencies is approved by the Superintendent, the district is designated conditionally standard.

(8) When the district corrects all identified deficiencies, the district is designated standard.

(9) If after 180 days from the approval of the plan, the district has not corrected all identified deficiencies, the Superintendent will designate the district nonstandard.

(10) The Superintendent may impose sanctions on a nonstandard district, including requiring merger with a contiguous, standard district, withholding state school fund allocations and the sanctions described in ORS 342.173. The determination of sanction is left to the discretion of the Superintendent.

Stat. Auth.: ORS 334.217

Stats. Implemented: ORS 334.125

Hist.: 1EB 237, f. & ef. 7-9-76; 1EB 265, f. & ef. 8-22-77; 1EB 4-1985, f. 1-4-85, ef. 7-1-85; EB 16-1994, f. & cert. ef. 11-14-94; ODE 1-2005(Temp), f. & cert. ef. 2-14-05 thru 8-1-05; Administrative correction 8-17-05; ODE 11-2006, f. & cert. ef. 2-21-06; ODE 28-2008, f. 10-23-08, cert. ef. 10-24-08

581-024-0226

Assessment and Evaluation of Services

(1) Each district board shall file by June 30 of each year with the Superintendent of Public Instruction an annual report to include an adopted Local Service Plan, a Review of Component Districts' Operations report, and an ESD Self-Appraisal report. This annual report, entitled "Local Service Plan/Annual Report" will be used by the Department to assess ESDs' compliance with state standards.

(2) To adequately complete the annual report the district shall have on file information regarding the procedures used in assessing the performance of services provided by the district including:

(a) A listing of services provided by the district with appropriate documentation regarding the results of component school districts' performance assessments.

(b) The budget for funds to be expended from the State School Fund as described in ORS 334.177 for each core service category shall be reported in the annual report, and maintained on file at the district.

Stat. Auth.: ORS 334.217

Stats. Implemented: ORS 334.217

Hist.: 1EB 4-1985, f. 1-4-85, ef. 7-1-85; EB 16-1994, f. & cert. ef. 11-14-94; Suspended by ODE 7-2006(Temp), f. & cert. ef. 2-14-06 thru 8-1-06; ODE 28-2008, f. 10-23-08, cert. ef. 10-24-08

581-024-0228

Review School District Operations

(1) Pursuant to ORS 334.125(9) each district board shall adopt a policy and procedure describing how the district shall work cooperatively with component school districts to periodically review their operations.

(2) The results of the review and report shall be summarized and reported to the Board as part of the district's annual report which is to be submitted by June 30 of each year.

(3) Unless specifically waived by the Board, the operations to be reviewed shall be accomplished as follows:

(a) 2008–2009, Accounting, payroll and printing; pupil transportation; legal services, investments and auditing; insurance and student records management. The order of review may be determined by the ESD and the component school districts.

(b) Other operations identified by the state board prior to September 1 of each school year.

(4) Other similar operations are subject to review as agreed upon by the district and its component school districts. Nothing in the requirements of this rule prevents a district and its component school districts from reviewing any operations at any time. However a district shall review at least one operation per year.

Stat. Auth.: ORS 334.125(9)

Stats. Implemented: ORS 334.125

Hist.: EB 16-1994, f. & cert. ef. 11-14-94; ODE 8-1999, f. & cert. ef. 1-15-99; Suspended by ODE 7-2006(Temp), f. & cert. ef. 2-14-06 thru 8-1-06; ODE 28-2008, f. 10-23-08, cert. ef. 10-24-08

581-024-0231

Curriculum Improvement

(1) Districts providing instructional and instructional support services shall do so, subject to available funds, and with the approval of component school district boards and the District board as provided in ORS 334.175.

(2) A district's Local Service Plan shall include services that are funded by the State School Fund; and by service contracts or agreements with component and noncomponent school districts, state and federal agencies, and other public and private agencies.

Stat. Auth.: ORS 334.125, 334.175 & 334.185

Stats. Implemented: ORS 334.125, 334.175 & 334.185

Hist.: 1EB 33-1978, f. & ef. 10-5-78; 1EB 15-1979, f. 10-4-79, ef. 10-5-79; 1EB 4-1985, f. 1-4-85, ef. 7-1-85; EB 10-1994, f. & cert. ef. 8-16-94; ODE 22-2002, f. & cert. ef. 10-15-02; ODE 28-2008, f. 10-23-08, cert. ef. 10-24-08

581-024-0235

Special Education Services

When providing special education services for component school districts, each district will work cooperatively with its component school districts to:

(1) Demonstrate that it has met state and federal requirements when providing special education and related services to children with disabilities; and

(2) Assist component school districts, to the extent that the district provides these services, to gather, analyze and report individualized testing data, and other information as required by the state or federal governments.

Stat. Auth.: ORS 334.125 & 334.175

Stats. Implemented: ORS 334.125 & 334.175

Hist.: 1EB 265, f. & ef. 8-22-77; 1EB 15-1979, f. 10-4-79, ef. 10-5-79; 1EB 4-1985, f. 1-4-85, ef. 7-1-85; EB 10-1994, f. & cert. ef. 8-16-94; ODE 28-2008, f. 10-23-08, cert. ef. 10-24-08

581-024-0240

Administration

(1) Each district board shall adopt rules, policies and procedures pursuant to ORS 334.125, and shall make such information available upon request.

(2) Each district shall complete and forward promptly all reports required by state and federal governments.

(3) Each district shall cause all employees responsible for funds, fees or cash collections to be covered under a district board-approved bond.

Stat. Auth.: ORS 334.005, 334.125 & 334.240

Stats. Implemented: ORS 334.125

Hist.: 1EB 237, f. & ef. 7-9-76; 1EB 265, f. & ef. 8-22-77; 1EB 4-1985, f. 1-4-85, ef. 7-1-85; EB 10-1994, f. & cert. ef. 8-16-94; ODE 28-2008, f. 10-23-08, cert. ef. 10-24-08

581-024-0245

Staff

(1) Each district shall employ staff as needed to provide the services as approved in the district's Local Service Plan, provided for in its annual budget and required in ORS 342.513 to 342.985, 653.310 to 653.340 and 659.850.

- (2) Each district shall assign:
 - (a) Licensed personnel in accordance with OAR division 584; and
 - (b) All personnel in accordance with their position descriptions.
 - (3) Each district shall maintain personnel policies to include:
 - (a) Assurances that equal employment opportunities for all persons are provided regardless of age, disability, national origin, race, color, marital status, religion, sex or sexual orientation; and
 - (b) An organization chart or written statement that describes the formal relationship between the district board and the various levels, titles and general assignments of employees.
 - (4) Personnel policies shall be provided to all employees and made available to the public.
- Stat. Auth.: ORS 334.217
 Stats. Implemented: ORS 334.125
 Hist.: 1EB 237, f. & ef. 7-9-76; 1EB 265, f. & ef. 8-22-77; 1EB 4-1985, f. 1-4-85, ef. 7-1-85; EB 15-1994, f. & cert. ef. 10-3-94; ODE 13-2008, f. & cert. ef. 5-23-08; ODE 28-2008, f. 10-23-08, cert. ef. 10-24-08

581-024-0250

District Boundary Board

In fulfilling its statutory responsibility to serve as district boundary board, the education service district board shall:

- (1) Maintain official minutes recording its actions as district boundary board;
- (2) Insure that meetings and minutes of the district boundary board are separate from its actions as district board;
- (3) Maintain current records describing the boundaries of the component school districts and their identification numbers consistent with official records of their respective county assessors;
- (4) Adopt policies under ORS 330.090(5); and
- (5) Adopt procedures for conducting hearings and reporting findings and conclusions in accordance with the requirements of OAR 581-025-0005 through 581-025-0015.

Stat. Auth.: ORS 334
 Stats. Implemented: ORS 330.090
 Hist.: 1EB 237, f. & ef. 7-9-76; 1EB 265, f. & ef. 8-22-77; 1EB 4-1985, f. 1-4-85, ef. 7-1-85; EB 6-1989, f. & cert. ef. 1-26-89; EB 15-1994, f. & cert. ef. 10-3-94; ODE 28-2008, f. 10-23-08, cert. ef. 10-24-08

581-024-0252

Boundary Changes

(1) The Board shall serve as the boundary board for districts. While serving as the boundary board the Board shall determine if a proposed boundary change is feasible and if the matter shall be submitted to the electors of each district. The Board, upon request, shall make available preprinted forms for petition and cause its staff to review and, if appropriate, modify statements of proposed boundary changes as they are to appear on the yet-to-be signed petitions.

(2) The board shall consider a proposed boundary change upon receipt of:

- (a) A joint petition from the two proposing districts; or
- (b) A petition from each proposing district containing the signatures of at least 500 electors or a number of electors of the district at least equal to five percent of the electors in the district, whichever is less.

(3) Consideration by the Board shall not be later than its second regular meeting following receipt of the qualified petition. At that meeting the Board shall review the petition and if appropriate:

- (a) Fix the time and place for a public hearing in each of the proposing districts to discuss the proposal;
- (b) Cause notices of the hearings to be published in accordance with ORS 330.400;
- (c) Name a Hearings Officer, Board member or Department staff person to conduct the public hearings and to present a written report on the hearings to the Superintendent. The report shall be submitted to the Superintendent within 15 days of the last hearing;
- (d) Notify the district boards of each district designated by the petition of this rule. This notification shall be issued to be received by each district within 15 days of the Board's action.

(4) At the public hearing in each proposing district the presiding officer shall cause to have discussed the effect on the proposed district. The hearing shall be conducted in accordance with procedures identified in ORS Chapter 183.

(5) Following the public hearings and receipt of the hearings report the Superintendent shall prepare for the Board's consideration at its next regular meeting an analysis and recommendation on the proposal. The recommendation shall consider whether the proposed district or districts would have the characteristics identified in ORS 334.690(1)–(5) and is feasible (334.720(2)).

(6) The Board shall consider the boundary change proposal including the Superintendent's analysis and recommendation and the hearings officer's report. The Board shall consider whether the proposed district or districts would have the characteristics identified in ORS 334.690. To favorably consider the proposal the Board shall determine that the proposed district or districts is in the best interest of the state and the students and school districts to be served. The Board may:

(a) Find the petition feasible and approve submitting the question of the proposed district or districts to the electors of each district at the next regular district election;

(b) Find the petition to be unfeasible, denying the request to place the matter before the electors; or

(c) Postpone action until the next meeting. Action by the Board shall be accomplished not later than its second meeting following receipt of the report on the hearings.

(7) Expenses incurred for the election shall be paid by each district as specified in ORS 255.305.

(8) A petition for a boundary change that would transfer territory from a school district which is a member of one education service district to another school district which is a member of another education service district, thus altering the boundaries of two ESDs must originate with and be adjudicated by the affected ESD boundary boards pursuant to ORS 330.095. The ESD boundary board of the most populous school district must act first and the ESD Boundary Boards must adhere to timelines established in 330.107 unless the state board grants an extension of time. Appeals of ESD boundary boards' procedures may be made to the State Board of Education under 330.090 and OAR 581-025-0020.

Stat. Auth.: ORS 255.305, 334.690, 334.710 & 334.720
 Stats. Implemented: ORS 255.305, 335.690, 334.710 & 334.720
 Hist.: EB 10-1994, f. & cert. ef. 8-16-94; ODE 28-2008, f. 10-23-08, cert. ef. 10-24-08

581-024-0255

Attendance Supervision

Each district shall provide attendance supervisors for component school districts of less than 1,000 ADM or, upon written request, shall grant a component school district permission to supervise their own attendance matters.

Stat. Auth.: ORS 339.040
 Stats. Implemented: ORS 339.040
 Hist.: 1EB 237, f. & ef. 7-9-76; 1EB 265, f. & ef. 8-22-77; 1EB 4-1985, f. 1-4-85, ef. 7-1-85; EB 10-1994, f. & cert. ef. 8-16-94; ODE 28-2008, f. 10-23-08, cert. ef. 10-24-08

581-024-0257

Children Instructed by Parent or Private Teacher

Each district shall perform those duties as identified in OAR 581-021-0026 through 581-021-0029.

Stat. Auth.: ORS 339.005 - 339.090
 Stats. Implemented: ORS 339.035
 Hist.: EB 10-1994, f. & cert. ef. 8-16-94; ODE 28-2008, f. 10-23-08, cert. ef. 10-24-08

581-024-0260

Budgets

Each district board shall:

- (1) Provide evidence that the district budget has been properly developed, adopted and implemented;
- (2) Assist component school districts, when requested, to develop annual budgets; and
- (3) Maintain a file of district and component school districts' budgets as officially adopted.

Stat. Auth.: ORS 334.125 & 334.240
 Stats. Implemented: ORS 334.125 & 334.240
 Hist.: 1EB 237, f. & ef. 7-9-76; 1EB 265, f. & ef. 8-22-77; 1EB 15-1979, f. 10-4-79, ef. 10-5-79; 1EB 4-1985, f. 1-4-85, ef. 7-1-85; EB 10-1994, f. & cert. ef. 8-16-94; ODE 28-2008, f. 10-23-08, cert. ef. 10-24-08

581-024-0262

Budget Committee

(1) The budget committee of a district shall consist of the voting members of the district board and a number of electors equal to the number of voting members of the district board plus one, who are members, or designees of component district boards.

(2) The district board shall adopt policies assuring equitable representation of the component school districts and which identify the nomination and appointment process. Terms of appointment shall be for three years.

(3) Sections (1) and (2) of this rule are not applicable when the district has a population exceeding 100,000 and is located in a county which has a tax supervising and conservation commission which shall serve as the budget committee. (See ORS 294.341.)

Stat. Auth.: ORS 334.240
 Stats. Implemented: ORS 334.240
 Hist.: EB 10-1994, f. & cert. ef. 8-16-94; ODE 28-2008, f. 10-23-08, cert. ef. 10-24-08

581-024-0265

Audits

(1) Each district shall insure that an annual audit of component school districts and its own accounts is conducted and shall:

(a) File in the district office a copy of the district's annual audits;

(b) Assist component school districts to meet budgeting, accounting and audit requirements of state agencies; and

(c) Maintain a file of the component school districts' audits.

(2) By January 1 of each year the district shall file with the Department the district audit for the previous year.

Stat. Auth.: ORS 294, 334.125(3)(b) & 334.217
 Stats. Implemented: ORS 334.125 & 334.217
 Hist.: 1EB 237, f. & ef. 7-9-76; 1EB 265, f. & ef. 8-22-77; 1EB 15-1979, f. 10-4-79, ef. 10-5-79; 1EB 4-1985, f. 1-4-85, ef. 7-1-85; EB 16-1994, f. & cert. ef. 11-14-94; ODE 28-2008, f. 10-23-08, cert. ef. 10-24-08

581-024-0270

State Board Assistance

(1) Each district shall assist the Board and Department pursuant to the provisions of ORS 334.005(5)(c), and 334.217(1) in providing state-level services and support of statutes and standards.

(2) When requested by the Department, each district shall verify how it has assisted component school districts to comply with applicable statutes and rules.

(3) Each district shall gather and forward information the Department requires or requests.

(4) Each district shall, within its capabilities, and when requested, provide personnel to assist in Department conduct standardization visits and school improvement services.

Stat. Auth.: ORS 334.005 & 334.217
 Stats. Implemented: ORS 334.005 & 334.217
 Hist.: 1EB 237, f. & ef. 7-9-76; 1EB 265, f. & ef. 8-22-77; 1EB 15-1979, f. 10-4-79, ef. 10-5-79; 1EB 4-1985, f. 1-4-85, ef. 7-1-85; EB 10-1994, f. & cert. ef. 8-16-94; ODE 28-2008, f. 10-23-08, cert. ef. 10-24-08

581-024-0275

Facilities, Safety and Emergency Planning

(1) Each district shall operate and maintain an administration office and other physical facilities as necessary to accommodate district services. These facilities must be in compliance with applicable federal and state health and safety regulations.

(2) Each district shall maintain inspection reports showing the district in compliance with all applicable federal and state health and safety regulations.

(3) In facilities operated by the district, each district shall provide for regularly scheduled and documented safety inspections to assure that the facilities and services are operated and maintained in a manner that protects the safety and health of staff and students.

(4) Each district shall develop a Healthy and Safe Facilities Plan for all buildings owned or leased by the district where students and staff are present on a regular basis. The plan must meet the requirements specified in OAR 581-022-2223, and each education service district shall comply with the reporting provisions of that rule.

(5) In schools operated by the district that are occupied by students, the district must ensure that all students are instructed and have drills on emergency procedures in compliance with ORS 336.071. The emergency procedures shall include drills and instruction on:

(a) Fires;

(b) Earthquakes, which shall include tsunami drills and instruction in schools in a tsunami hazard zone; and

(c) Safety threats including procedures related to lockdown, lockout, shelter in place and evacuation and other appropriate actions to take when there is a threat to safety.

(6) In facilities operated by the district, each district must have a written plan for responding to emergency situations. Emergency situations include but are not limited to: injury accidents, fire, chemical spill, hazardous materials, exposure to contagious disease, fire arms on the premises, and other illegal acts that threaten the health and safety of staff and students.

(a) Emergency plans should be coordinated with appropriate police and fire services, ambulance services and area hospitals.

(b) There should be an adequate internal communication system in district operated facilities to transmit emergency information to staff and students in a rapid and clear manner.

(c) The emergency plan should be posted in conspicuous places throughout district operated facilities.

(d) There should be periodic training for staff and students regarding the emergency plan. Appropriate first-aid supplies and at least one staff member with a current first-aid/CPR card shall be available at all district operated facilities.

Stat. Auth.: ORS 334.125, 334.217 & 336.071
 Stats. Implemented: ORS 334.125, 334.217 & 336.071
 Hist.: 1EB 237, f. & ef. 7-9-76; 1EB 265, f. & ef. 8-22-77; 1EB 4-1985, f. 1-4-85, ef. 7-1-85; EB 10-1994, f. & cert. ef. 8-16-94; ODE 28-2008, f. 10-23-08, cert. ef. 10-24-08; ODE 28-2015, f. & cert. ef. 12-22-15; ODE 42-2016, f. & cert. ef. 8-19-16

581-024-0280

Auxiliary Services

Each district choosing to engage in auxiliary services with components or other agencies shall do so consistent with district goals and shall document planning and assessment procedures for each such service.

Stat. Auth.: ORS 334.005, 334.125, 334.145(3), 334.175, 334.185 & 334.195
 Stats. Implemented: ORS 334.005, 334.125, 334.145, 334.175, 334.185 & 334.195
 Hist.: 1EB 237, f. & ef. 7-9-76; 1EB 265, f. & ef. 8-22-77; EB 10-1994, f. & cert. ef. 8-16-94

581-024-0285

Local Service Plans

(1) The district board must develop and adopt a local service plan pursuant to ORS 334.175 and this rule.

(2) Following adoption by the district board, the local service plan must be approved by the boards of the component school districts by resolution on or before March 1 pursuant to ORS 334.175(5)(b). The local service plan must include all services and facilities provided by an ESD, including the core services as defined in 334.175(2) and section (7) of this rule, those services required by state and federal law and services provided under contract to component school districts, non-component school districts and other public and private entities and must be approved annually by the ESD board and the component school districts. A local service plan shall also contain annual performance measures. A local service plan must be approved by the affirmative vote of at least two thirds of the boards of the ESD's component school districts, representing at least 50 percent of the total number of students enrolled in component school districts of the ESD.

(3) Pursuant to ORS 334.177 an education service district board shall expend at least 90 percent of all amounts received from the State School Fund and at least 90 percent of all amounts considered to be local revenues of an education service district on services or programs that have been adopted by the district board in the local service plan and approved by the component school districts of the education service district through the resolution process described in 334.175. For purposes of this section, amounts considered to be local revenues of an education service district are those local revenues defined in 327.019(1)(b) less the amounts required to be distributed to component school districts under 327.019(8).

(4) Pursuant to ORS 334.177, an education service district board shall expend 100 percent of all amounts received from the School Improvement Fund on services or programs that have been adopted by the district board in the local service plan and approved by the boards of the component school districts of the education service district through the resolution process described in 334.175.

(5) Appropriate allocated costs of personnel, supplies, materials, equipment, and facilities associated with providing resolution services may be allocated to the local service plan and included in the 90% calculation.

(6) An approved local service plan may be amended at any time by the affirmative vote of at least two thirds of the boards of the ESD's component school districts, representing at least 50 percent of the total number of students enrolled in component school districts of the ESD.

(7) ESDs shall offer the following core services to component school districts, including:

(a) Programs for children with special needs, including but not limited to special education services, services for at-risk students and professional development for employees who provide those services;

(b) Technology support for component school districts and the individual technology plans of those districts, including but not limited to technology infrastructure services, data services, instructional technology services, distance learning and professional development for employees who provide those services;

(c) School improvement services for component school districts, including but not limited to services designed to support component school districts in meeting the requirements of state and federal law, services designed to allow the education service district to participate in and facilitate a review of the state and federal standards related to the provision of a quality education by component school districts, services designed to support and facilitate continuous school improvement planning, services designed to address schoolwide behavior and climate issues and professional technical education and professional development for employees who provide those services;

(d) Administrative and support services for component school districts, including but not limited to services designed to consolidate component school district business functions, liaison services between the Department of Education and component school districts and registration of children being taught by private teachers, parents or legal guardians pursuant to ORS 339.035; and

(e) Other services that an education service district is required to provide by state or federal law, including but not limited to services required under ORS 339.005 to 339.090.

(8) An ESD may provide entrepreneurial services and facilities to non-component school districts and other public and private entities pursuant to ORS 334.185. An ESD may provide entrepreneurial services and facilities if:

(a) The entrepreneurial services or facilities are included and identified in an approved local service plan;

(b) The entrepreneurial services or facilities are provided pursuant to a business plan, which must include a description of each service and facility, a statement of the projected expense incurred and revenue generated by the service or facility, a statement of the expected benefit to component school districts, an annual financial report provided to component school districts and a statement of the source of funding for the service or facility; and

(c) The primary purpose of the entrepreneurial services or facilities is to address a need of component school districts.

(9) Prior to June 30 of each year, an ESD shall submit to the Department of Education the local service plan of the ESD adopted pursuant to ORS 334.175 and this rule. The local service plan shall be part of the Annual Report submitted by the ESD to the Department.

Stat. Auth.: ORS 326.051, 334.005 & 334.175

Stats. Implemented: ORS 334.005 & 334.175

Hist.: EB 16-1994, f. & cert. ef. 11-14-94; ODE 22-2002, f. & cert. ef. 10-15-02; ODE 13-2005(Temp), f. & cert. ef. 12-29-05 thru 6-1-06; Administrative correction 7-20-06; ODE 33-2007, f. & cert. ef. 12-12-07; ODE 28-2008, f. 10-23-08, cert. ef. 10-24-08

581-024-0290

Advisors to the Board

Each district board may appoint nonvoting advisory members to the board as the board deems important.

Stat. Auth.: ORS 334.025(3)

Stats. Implemented: ORS 334.025

Hist.: EB 10-1994, f. & cert. ef. 8-16-94; ODE 22-2002, f. & cert. ef. 10-15-02; ODE 28-2008, f. 10-23-08, cert. ef. 10-24-08

581-024-0300

Advisory Committees

(1) Except as required in section (2) of this rule, the district board may appoint local advisory committees to represent the interests of areas within the district and to advise the district board on matters of interest within the area.

(2) If two or more component school district boards adopt resolutions petitioning the district board to establish a local advisory committee, the district board shall establish such a committee.

(3) A local advisory committee shall represent more than one component school district board.

(4) The district board shall adopt policies concerning the composition, number of members, term of office, procedures for appointment, and duties and responsibilities of each advisory committee.

(5) Nothing in this rule prevents district boards from appointing ad hoc advisory committees whenever the board deems it appropriate.

Stat. Auth.: ORS 334.025(4)

Stats. Implemented: ORS 334.025

Hist.: EB 10-1994, f. & cert. ef. 8-16-94; ODE 28-2008, f. 10-23-08, cert. ef. 10-24-08

581-024-0310

Gifts and Bequests

Each district board shall, subject to ORS 334.215 and 294.326, adopt a policy concerning acceptance of bequests of money and gifts and for their deposit and expenditure. By policy or duly adopted motion the district board may refuse to accept donations that it deems not to be in the district's best interest.

Stat. Auth.: ORS 334.215

Stats. Implemented: ORS 334.215

Hist.: EB 10-1994, f. & cert. ef. 8-16-94

DIVISION 25

DISTRICT BOUNDARY BOARD HEARINGS

581-025-0005

District Boundary Board Hearings

(1) The boundary board may develop preprinted forms for a request and a petition for boundary change or merger.

(2) Before the proposed boundary change or merger is considered, the boundary board shall give notice in the manner provided in ORS 330.101(1) and 330.635.

Stat. Auth.: ORS 330.080, 330.090(5), 330.107 & 330.123

Stats. Implemented: ORS 330.080, 330.090, 330.107 & 330.125

Hist.: EB 7-1989, f. & cert. ef. 1-26-89; EB 48-1990, f. & cert. ef. 12-5-90

581-025-0010

Final Decision of District Boundary Board

(1) The boundary board shall make, by resolution, the final decision on the proposed boundary change or merger.

(2) Within three days of the final decision, the boundary board shall serve a copy of the resolution of final decision personally or by certified mail upon the affected school districts, each district boundary board with jurisdiction over an affected district, and the petitioners or their designated agent.

Stat. Auth.: ORS 330.080, 330.090(5), 330.107 & 330.123

Stats. Implemented: ORS 330.080, 330.090, 330.107 & 330.125

Hist.: EB 7-1989, f. & cert. ef. 1-26-89; EB 48-1990, f. & cert. ef. 12-5-90

581-025-0015

Submission of Record to the State Board of Education

Upon receipt of a copy of the notice of appeal to the State Board of Education, the boundary board shall forward the complete record of its consideration of the request or petition to the State Board within 30 days. The complete record shall include the original request or petition, affidavits of publication of notice of the meeting at which the request or petition was considered and a copy of the notice, and the resolution of final decision.

Stat. Auth.: ORS 330.080, 330.090(5), 330.107 & 330.123

Stats. Implemented: ORS 330.080, 330.090, 330.107 & 330.125

Hist.: EB 7-1989, f. & cert. ef. 1-26-89; EB 48-1990, f. & cert. ef. 12-5-90

581-025-0020

Procedure for Appeal to the State Board of Education of a District Boundary Board Decision

(1) A notice of appeal to the State Board of Education under ORS 330.090(5) shall be filed within 30 days of the date of the resolution of final decision of the boundary board:

(a) The notice of appeal submitted by the petitioners shall be signed by all petitioners or their designated agent;

(b) A notice of appeal submitted by the school districts shall be signed by the district superintendent, the chairman of the district board of directors or by the attorney for each school district.

(2) The notice of appeal shall be filed with the State Superintendent of Public Instruction and a copy of the notice of appeal shall be sent to the boundary board.

(3) After consideration of the complete record submitted by the boundary board, the State Board of Education shall order the proposed boundary change or merger if the requirements of ORS 330.080 to 330.101 have been satisfied and shall direct the boundary board to perform the duties described in ORS 330.101 and 308.255

Stat. Auth.: ORS 330.080, 330.090(5), 330.107 & 330.123

Stats. Implemented: ORS 330.080, 330.090, 330.107 & 330.125

Hist.: EB 7-1989, f. & cert. ef. 1-26-89; EB 48-1990, f. & cert. ef. 12-5-90

DIVISION 26

PUBLIC CHARTER SCHOOLS

581-026-0005

Definitions

(1) “Applicant”: An applicant means any person or group that develops and submits a written proposal for a public charter school to a sponsor.

(2) “District School Board”: The board of directors of a common school district or a union high school district (ORS 332.002(1)).

(3) “Public Charter School”: A public charter school means an elementary or secondary school offering a comprehensive instructional program operating under a written agreement entered into between a sponsor and an applicant and operating pursuant to ORS 338.

(4) “Sponsor”: A sponsor of a public charter school means:

(a) The board of the common school district or the union high school district in which the public charter school is located that has developed a written charter with an applicant to create a public charter school.

(b) The State Board of Education pursuant to ORS 338.075.

(c) An institution of higher education pursuant to ORS 338.075.

(5) “Virtual Public Charter School”: A public charter school as defined in ORS 338.005(6) and 581-026-0300.

Stat. Auth.: ORS 338.025

Stats. Implemented: ORS 338

Hist. ODE 10-2014, f. & cert. ef. 2-19-14

581-026-0050

Public Charter School Proposal Submission and Completeness

(1) An applicant must submit proposals to the local school district board and the State Board of Education.

(2) Upon receipt of a proposal from an applicant, the school district board will determine whether the proposal addresses, at least minimally, all of the required components as set out in ORS 338.045(2) and (3). Within 30 business days of the receipt of a proposal, the school district will notify the applicant as to the completeness of the proposal. A proposal that included, for example, a reprinting of the charter school statutes as its response to a required component, would not minimally address that component and would not be complete. A proposal that addressed a required component based on an incorrect budget assumption or in a manner that is unsatisfactory to the local school district would nonetheless be complete.

(a) If the district deems a proposal to be incomplete, the district must identify the specific elements that are not complete and provide a reasonable opportunity to complete the proposal.

(b) The district may disapprove the proposal if the applicant does not provide a proposal that is complete within the reasonable opportunity as provided in subparagraph (a) of this paragraph.

(c) For a proposal that has been disapproved under (b), the applicant may appeal the decision to the State Board of Education within 30 days of the disapproval. The State Board may review the proposal only for completeness and may determine that the proposal is:

(A) Not complete and uphold the decision of the school district board; or

(B) Complete and remand the proposal to the school district for consideration.

(3) The State Board of Education delegates to the Superintendent of Public Instruction or designee all administrative functions necessary or reasonable in order to conduct a timely appeal process. This delegation includes issuing a final order. An order issued by the Superintendent or designee shall be considered an order in other than a contested case under ORS 183.484. The final order shall:

(a) Uphold the decision of the school district board; or

(b) Remand the proposal to the school district for consideration.

(4) The Superintendent shall issue a final order within 30 days of receiving the notice of appeal from the applicant. The Superintendent shall send a copy of the final order to the applicant and the school district.

Stat. Auth.: ORS 338.025

Stats. Implemented: ORS 338.055

Hist.: ODE 13-2000, f. & cert. ef. 5-3-00; ODE 15-2009(Temp), f. & cert. ef. 12-10-09 thru 6-8-10; Administrative correction 6-25-10; ODE 11-2010, f. & cert. ef. 6-30-10; Renumbered from 581-020-0301, ODE 10-2014, f. & cert. ef. 2-19-14

581-026-0055

Public Charter School Proposal Review and Resubmission

(1) Within 60 days after the notification to the applicant of the school district’s receipt of a completed proposal or a final order issued by the Superintendent of Public Instruction remanding the proposal to the school district for consideration, the school district board must hold a public hearing on the proposal in accordance with Oregon public meeting laws (ORS 192.610 through 192.695, 192.710, and 192.990).

(2) The school district board must evaluate the proposal in good faith using the following criteria:

(a) Demonstrated, sustainable support for the public charter school by teachers, parents, students and other community members,

including comments received at the public hearing held under subsection (1) above;

(b) Demonstrated financial stability of the public charter school, including the demonstrated ability of the school to have a sound financial management system in place at the time the school begins operating;

(c) Capability of the applicant, in terms of support and planning, to provide students with comprehensive instructional programs;

(d) Capability of the applicant, in terms of support and planning, to provide academically low achieving students with comprehensive instructional programs;

(e) The adequacy of the information provided as required by ORS 338.45 (2) and (3);

(f) Whether the value of the public charter school is outweighed by any directly identifiable, significant and adverse impact on the quality of the public education of students residing in the school district where the public charter school is located;

(g) Whether there are arrangements for any special education and related services for children with disabilities pursuant to ORS 338.165;

(h) Whether there are alternative arrangements for students and for teachers and other school employees who choose not to attend or who choose not to be employed by the public charter school; and

(i) The prior history, if any, of the applicant in operating a public charter school or in providing educational services.

(3) Within 30 days of the public hearing, the school district board must either approve or deny the proposal. Written notice of the decision must be sent to applicants. Such notice must include reasons and suggestions for remediation for all proposals that are denied. The school district board may provide a reasonable opportunity to resubmit the proposal.

(4) An applicant may amend and resubmit the proposal to the school district board.

(5) The local school board must approve or disapprove the resubmitted proposal within 30 days of receipt.

(6) An applicant whose resubmitted proposal is not approved by the local school board may request a review of that decision by the State Board of Education within 30 days of the disapproval. When the State Board of Education receives an appeal under this subsection, the board may review the resubmitted proposal only to determine whether:

(a) The school district board used the process required by OAR 581-026-0050 and 581-026-0055 in denying the proposal;

(b) The resubmitted proposal meets the criteria described in subsection (2) of this rule; and

(c) The reasons stated by the school district board for the denial are valid and align with the criteria described in subsection (2) of this rule.

(7) The State Board of Education delegates to the Superintendent of Public Instruction or designee all administrative functions necessary or reasonable in order to conduct a timely appeal process. This delegation includes issuing a final order. An order issued by the Superintendent or designee shall be considered an order in other than a contested case under ORS 183.484. The final order shall:

(a) Uphold the decision of the school district board to disapprove the resubmitted proposal; or

(b) Remand the resubmitted proposal to the school district board for reconsideration.

(8) The Superintendent shall issue a final order within 30 days of receiving the notice of appeal from the applicant. The Superintendent shall send a copy of the final order to the applicant and the school district.

Stat. Auth.: ORS 338.025

Stats. Implemented: ORS 338.055

Hist.: ODE 10-2014, f. & cert. ef. 2-19-14

581-026-0060

Public Charter School Proposal Reconsideration

Within 60 days of a final order issued by the Superintendent of Public Instruction remanding the resubmitted proposal to the school district for reconsideration, the school district board must evaluate the resubmitted proposal in good faith using the following criteria:

(1) Demonstrated, sustainable support for the public charter school by teachers, parents, students and other community members, including comments received at the public hearing held under OAR 581-026-0055 (1);

(2) Demonstrated financial stability of the public charter school, including the demonstrated ability of the school to have a sound financial management system in place at the time the school begins operating;

(3) Capability of the applicant, in terms of support and planning, to provide students with comprehensive instructional programs;

(4) Capability of the applicant, in terms of support and planning, to provide academically low achieving students with comprehensive instructional programs;

(5) The adequacy of the information provided as required by ORS 338.045 (2) and (3);

(6) Whether the value of the public charter school is outweighed by any directly identifiable, significant and adverse impact on the quality of the public education of students residing in the school district where the public charter school is located;

(7) Whether there are arrangements for any special education and related services for children with disabilities pursuant to ORS 338.165;

(8) Whether there are alternative arrangements for students and for teachers and other school employees who choose not to attend or who choose not to be employed by the public charter school; and

(9) The prior history, if any, of the applicant in operating a public charter school or in providing educational services.

(10) The school district board must either approve or deny the resubmitted proposal. Written notice of the decision must be sent to applicants. Such notice must include reasons and suggestions for remediation for all proposals that are denied.

(11) An applicant whose resubmitted proposal that has been reconsidered by the school district board and disapproved, may request the State Board of Education review the decision under the procedure set out in OAR 581-026-0065.

Stat. Auth.: ORS 338.025

Stats. Implemented: ORS 338.055

Hist.: ODE 10-2014, f. & cert. ef. 2-19-14

581-026-0065

Appeal Process

(1) An applicant whose resubmitted proposal to start a public charter school is disapproved following reconsideration may request the State Board of Education review the decision of the school district board within 30 days of the disapproval.

(2) The State Board of Education delegates to the Superintendent of Public Instruction or designee all administrative functions necessary or reasonable in order to conduct review. This delegation to the Superintendent includes, but is not limited to:

(a) Determining the form, contents and timelines of the petition for review;

(b) Determining the records required for review and ordering the production of those records from either the applicant or school district board and establishing timelines for the production of those records;

(c) Requiring the applicant or school district board to respond to written or oral inquiries related to board review; and

(d) Determining at any time during the review process to reject a review request if in the judgment of the Superintendent, the applicant fails to reasonably comply with the administrative review processes of the Superintendent.

(3) The Superintendent may review the decision only to determine whether:

(a) The school district board used the process required OAR 581-026-0060; and

(b) The proposal meets the criteria described in OAR 581-026-0060 (1); and

(c) The reasons stated by the school district board for the denial are valid and align with the criteria described in OAR 581-026-0060 (1).

(4) Following a review described in (9), the State Board of Education may:

(a) Uphold the decision of the school district board to disapprove the resubmitted proposal;

(b) Remand the resubmitted proposal to the school district board for reconsideration if the school district board and the applicant agree to the remand; or

(c) Consider becoming the sponsor of the public charter school if the applicant agrees to the sponsorship.

(5) At the conclusion of the administrative review process the Superintendent shall recommend in writing to the State Board to:

(a) Uphold the decision of the school district board to disapproved the resubmitted proposal; or

(b) Remand the resubmitted proposal to the school district board for reconsideration if the school district board and the applicant agree to the remand; or

(c) Sponsor the public charter school upon the terms in the proposal or upon such other terms specified.

(6) The State Board will consider the recommendation of the Superintendent and any other information it deems relevant and determine based on the requirements of ORS 338 to have the State Board sponsor the public charter school.

(a) If the State Board decides to consider the recommendation of the Superintendent to sponsor the public charter school, the State Board will complete a rigorous evaluation of the proposal as defined in State Board policy.

(7) The decision of the State Board to uphold the school district board decision to disapproved the resubmitted proposal will be based on substantial evidence in the record and will be made within 75 days of receipt by the State Board of the Superintendent's recommendation, unless extended for good cause.

(8) An applicant may seek judicial review of an order of the State Board of Education pursuant to ORS 183.484.

Stat. Auth.: ORS 326.051 & 338.025

Stats. Implemented: ORS 338.075

Hist.: ODE 13-2000, f. & cert. ef. 5-3-00; ODE 10-2002, f. & cert. ef. 4-12-02; ODE 5-2004(Temp), f. & cert. ef. 3-15-04 thru 9-1-04; Administrative Correction 9-28-04; ODE 21-2012, f. & cert. ef. 8-1-12; Renumbered from 581-020-0331, ODE 10-2014, f. & cert. ef. 2-19-14; ODE 48-2014, f. & cert. ef. 12-17-14

581-026-0100

Development and Execution of a Charter

(1) School district boards, the State Board, and Institutions of Higher Education that approve a proposal will be considered the sponsor of the public charter school defined in the proposal.

(2) An applicant whose proposal has been approved by the sponsor must, in cooperation with the sponsor, prepare and execute a charter that addresses, at a minimum, the information that is included in the proposal and:

(a) State any reasonable pre-opening requirements or conditions for the public charter school to ensure they meet all health, safety, and other legal requirements prior to opening and are prepared to open smoothly;

(b) State how the public charter school shall receive any state and federal funds distributed to districts other than the negotiated percentage of the charter school rate as required by ORS 338.155;

(c) Establish the performance standards under which the public charter school will be evaluated, using objective and verifiable measures of student achievement as the primary measure of school quality;

(d) Define the sources of academic data that will form the evidence base for ongoing and renewal evaluation;

(e) Include expectations for appropriate access, education support services, and coordination with the district in which the

public charter school is located for students who may qualify for additional education services; and

(f) Include clear, measureable performance standards to judge the effectiveness of mission-specific performance measure and metrics that credibly demonstrate the public charter school's success in fulfilling its mission and serving its students.

(3) Notwithstanding subsection (2), an applicant and sponsor may agree to change elements of the proposal prior to including them in the charter and may agree to exclude elements of the proposal from the charter or to include new elements in the charter by mutual agreement of the school district board and the applicant.

(4) An initial charter may be in effect for no more than five years and may be renewed by the sponsor.

(5) The first renewal of a charter must be for the same number of years as the initial charter.

(6) Subsequent renewals of a charter must be for a minimum of five years but may not exceed 10 years.

(7) A sponsor and the charter school governing body may amend a charter at any time by joint agreement.

Stat. Auth.: ORS 326.051

Stats. Implemented: Ch. 200, OL 1999 (SB 100)

Hist.: ODE 13-2000, f. & cert. ef. 5-3-00; Renumbered from 581-020-0311, ODE 10-2014, f. & cert. ef. 2-19-14

581-026-0110

Public Charter School Mediation Provided by the State Board of Education

(1) If the school district board and the applicant are unable to agree on a change during the proposal or chartering process, the school district board or the applicant may request mediation by the State Board of Education.

(2) The State Board of Education delegates to the Superintendent of Public Instruction or designee all administrative functions necessary or reasonable in order to conduct mediation. The Superintendent or designee shall follow the procedures and timelines required by this rule. This delegation to the Superintendent or designee includes, but is not limited to:

(a) Determining the form, contents, and timelines of the mediation; and

(b) Determining the records required for mediation and ordering the production of those records from the school district board, applicant, or public charter school governing body and establishing timelines for the production of those records.

(3) If the school district board and the applicant are unable to reach an agreement following mediation as provided in this section of rule, the most recent proposal submitted without the change that was the subject of mediation shall be the proposal the school district board and applicant address in the next step of the proposal or chartering process following the point at which mediation began.

Stat. Auth.: ORS 338.025

Stats. Implemented: ORS 338.055

Hist.: ODE 10-2014, f. & cert. ef. 2-19-14

581-026-0120

Charter School Development Timelines

(1) School district boards may develop timelines, policies and procedures for receiving, evaluating and approving or disapproving proposals within the parameters set out in ORS 338.

(2) School district board timelines, policies and procedures for receiving, evaluating and approving or disapproving proposals may require coordination of charter proposal development with the district's budgeting, student enrollment or operational timelines as necessary to demonstrate that the proposed charter school would meet the requirements of ORS 338.

(3) Upon request from a school district, the State Board of Education may extend any timeline required in ORS 338 if the school district board can demonstrate good cause for the extension.

Stat. Auth.: ORS 326.051

Stats. Implemented: Ch. 200, OL 1999 (SB 100)

Hist.: ODE 13-2000, f. & cert. ef. 5-3-00; Renumbered from 581-020-0311, ODE 10-2014, f. & cert. ef. 2-19-14

581-026-0125

Timeline Extensions

Consistent with ORS 326.111, the State Board of Education delegates to the Superintendent of Public Instruction or the Superintendent's designee the authority to grant extensions of timelines. The Superintendent or designee may grant an extension, upon request from a school district, if the district has good cause for requesting an extension of the timeline for:

- (1) The charter approval process under ORS 338.055; or
- (2) The charter renewal process under ORS 338.065.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.111

Hist.: ODE 10-2014, f. & cert. ef. 2-19-14

581-026-0130

Procedure to Waive Certain Provisions of the Charter School Law

(1) A public charter school may petition the State Board of Education for a waiver of any provision of ORS 388. The written petition must specify the reason(s) the charter school is seeking the waiver and any other relevant information.

(2) The public charter school must notify the sponsor if a waiver under this section is being considered. Waivers granted by the State Board to a charter school may require amending the charter under the provisions of OAR 581-026-0100 (7).

(3) The State Board of Education, upon receipt of a waiver petition, will review the petition and may grant the waiver upon a showing that approving the waiver would:

- (a) Promote the development of programs by providers;
- (b) Enhance the equitable access by underserved families to the public education of their choice;
- (c) Extend the equitable access to public support by all students; or
- (d) Permit the development of high quality programs of unusual cost.

(4) The State Board of Education may not waive any review provision under the Act or any provision under ORS 338.115(1).

Stat. Auth.: ORS 3263.051

Stats. Implemented: Ch. 200, OL 1999(SB 100)

Hist.: ODE 10-2014, f. & cert. ef. 2-19-14; ODE 48-2014, f. & cert. ef. 12-17-14

581-026-0200

Financial Management System

(1) A charter school applicant must include a description of a financial management system within the proposal submitted to the local school district board and the State Board of Education.

(2) A public charter school must have in place a financial management system at the time the school begins operation.

(3) A financial system used by a public charter school must include a budget and accounting system that:

- (a) Is compatible with the budget and accounting system of the sponsor of the school;
- (b) Complies with the requirements of the uniform budget and accounting system adopted by the State Board of Education under OAR 581-023-0035.

Stat. Auth.: ORS 338.025

Stat. Implemented: ORS 338

Hist.: ODE 11-2010, f. & cert. ef. 6-30-10; ODE 16-2011, f. & cert. ef. 12-15-11; Renumbered from 581-020-0334, ODE 10-2014, f. & cert. ef. 2-19-14

581-026-0210

Annual Financial Reporting

(1)(a) A public charter school required to comply with ORS 338.035(2)(a)(B) and (C) shall have an annual audit of the accounts of the public charter school prepared in accordance with the Municipal Audit Law, ORS 297.405 to 297.555 and 297.990.

(b) A public charter school that meets the definitions and criteria in ORS 338.035(6)(b) (A), (B), (C) and (D), may be treated as the same legal entity as the school district and is not required to submit a separate audit. The public charter school must comply with OAR 581-026-0200 and must be included in the audit of the sponsoring district. The district audit for the public charter school must minimally include:

(A) An audit of all accounts and funds associated with the public charter school;

(B) A summary of significant accounting policies, cash and investments, and internal controls; and

(C) A statement of activities and a balance sheet containing a summary of the assets and liabilities of the public charter school as of the closing date of the preceding annual audit period for the school.

(2) After an audit, the public charter school shall forward a copy of the annual audit to the Department of Education.

(3) After an audit, the public charter school shall forward the following to the sponsor:

- (a) A copy of the annual audit;
- (b) Any statements from the public charter school that show the results of all operations and transactions affecting the financial status of the public charter school during the preceding annual audit period for the school; and
- (c) A balance sheet containing a summary of the assets and liabilities of the public charter school as of the closing date of the preceding annual audit period for the school.

Stat. Auth.: ORS 338.025

Stat. Implemented: ORS 338.095

Hist.: ODE 11-2010, f. & cert. ef. 6-30-10; ODE 17-2011, f. 12-15-11, cert. ef. 1-1-12; Renumbered from 581-020-0336, ODE 10-2014, f. & cert. ef. 2-19-14; ODE 48-2014, f. & cert. ef. 12-17-14; ODE 19-2015, f. & cert. ef. 12-18-15

581-026-0300

Virtual Public Charter Schools

(1) All statutes and rules that apply to public charter schools also apply to virtual public charter schools. In addition, virtual public charter schools must also meet additional statutory requirements found in ORS Chapter 338.

(2) As used in ORS Chapter 338 and the rules of the State Board of Education, "virtual charter school" means a public charter school that provides online courses. An online course is a course in which:

(a) Instruction and content are delivered primarily on a computer using the internet or other electronic network or other technology such as CDs or DVDs;

(b) The student and teacher are in different physical locations for a majority of the student's instructional period while participating in the course;

(c) The online instructional activities are integral to the academic program of the school as described in its charter; and

(d) The student is not required to be located at the physical location of a school while participating in the course.

(3) Notwithstanding subsection (2) of this rule, "virtual public charter school" does not include a public charter school that primarily serves students in a physical location. A charter school is not a virtual public charter school if the schools meet all of the following requirements:

(a) More than 50 percent of the core courses offered by the school are offered at a physical location and are not online courses;

(b) More than 50 percent of the total number of students attending the school are receiving instructional services at a physical location and not in an online course; and

(c) More than 50 percent of the minimum number of instructional hours required to be provided to students by the school under OAR 581-022-1620 during a school year are provided at a physical location and not through an online course.

(4) As used in this rule:

(a) "Core course" means:

- (A) English language arts including reading and writing;
- (B) Mathematics;
- (C) Science;
- (D) Social sciences including history, civics, geography and economics
- (E) Physical education;
- (F) Health
- (G) The arts;
- (H) World languages and
- (I) Career and technical education

(b) "Physical location" means a facility that is owned, leased or otherwise used by a school to deliver educational services. "Physical location" includes, but is not limited to, a school, library, public building or other physical space utilized by the school. "Physical location" does not include a student's home.

(c) "Public charter school" has the meaning given that term in ORS 338.005.

(5) This rule does not apply to programs or courses offered by school districts, education service districts, alternative education programs or the Oregon Virtual School District.

Stat. Auth.: ORS 338.025

Stats. Implemented: ORS 338.005

Hist.: ODE 12-2010, f. & cert. ef. 6-30-10; Renumbered from 581-020-0338,

ODE 10-2014, f. & cert. ef. 2-19-14

581-026-0305

Virtual Public Charter School Student Enrollment

(1) As used in this rule:

(a) "Notice" means a written notice that is mailed, faxed, e-mailed or personally delivered by the party required to provide the notice.

(b) "Parent" means parent, legal guardian or person in parental relationship as defined in ORS 339.133.

(c) "Reside in a school district" means the school district in which the student's parent resides.

(d) "School district" means a school district in which more than three percent of the students who reside in the school district are enrolled in one or more virtual public charter schools.

(e) "Student" means a student who seeks to enroll in a virtual public charter school on or after August 2, 2011.

(f) "Virtual public charter school" is as that term is defined in OAR 581-026-0300.

(2) A parent must provide notice to the school district in which the parent resides that the parent intends to enroll a student in a virtual public charter school. Upon receiving the notice, a school district may choose to do nothing further until receiving notice the student is enrolled in the school or if more than three percent of the students who reside in the school district are enrolled in virtual public charter schools not sponsored by the district, the district must provide notice to the parent that the district:

(a) Approves the student for enrollment in the virtual public charter school; or

(b) Does not approve the student for enrollment in the virtual public charter school and provide a copy of this rule and OAR 581-026-0310 to the student and a list of two or more other online options available to the student.

(3) If a parent does not receive a notice of approval or disapproval from a school district under subsection (2) of this rule within 14 days of sending the notice of intent to enroll to the district, the student shall be deemed approved for enrollment by the district.

(4) A parent may appeal a decision of a school district to not approve a student for enrollment to the State Board of Education pursuant to OAR 581-026-0310.

(5) A virtual public charter school may only enroll a student if the school receives evidence the student's parent has notified the resident school district of the student's intent to enroll in the school. A school shall consider any of the following as evidence the resident school district received adequate notice:

(a) A copy of the notice of intent to enroll sent to the district by the parent;

(b) A notice of approval for enrollment from the district; or

(c) A copy of a final order issued by the Superintendent pursuant to OAR 581-026-0310 that finds that the student is approved for enrollment in the school.

(6) A virtual public charter school shall send a list of students to each school district in which a student who is enrolled in the school resides. The list shall be sent monthly when the virtual school is in session.

(7) If a school district chooses to not approve a student for enrollment in a virtual public charter school under this section, the

district must have a policy that at a minimum includes the following:

(a) The annual, semiannual or other date that the school district used to calculate whether or not three percent or more of the students who reside within the district are enrolled in a virtual public charter school.

(b) The description of the data used by the school district to calculate the number of students who reside in the district and the number of students who are enrolled in virtual public charter schools. A school district is only required to use data that is reasonably available to the district including but not limited to:

(A) The number of students enrolled in the schools of the school district;

(B) The number of students enrolled in public charter schools located in the school district;

(C) The number of students enrolled in virtual public charter schools;

(D) The number homeschooled students who reside within the district and who have registered with an education service district; and

(E) The number of students enrolled in private schools located within the school district.

Stat. Auth.: ORS 338.025

Stats. Implemented: ORS 338.125

Hist.: ODE 11-2011(Temp), f. & cert. ef. 8-23-11 thru 2-19-12; ODE 19-2011,

f. & cert. ef. 12-15-11; Renumbered from 581-020-0342, ODE 10-2014, f. & cert. ef. 2-19-14

581-026-0310

Virtual Public Charter School Student Enrollment Appeal Procedure

(1) The State Board of Education delegates to the Superintendent of Public Instruction or designee all administrative functions necessary or reasonable in order to conduct a timely appeal process. This delegation includes issuing a final order. An order issued by the Superintendent or designee shall be considered an order in other than a contested case under ORS 183.484.

(2) A parent may appeal a decision of a school district to not approve enrollment of a student in a virtual public charter school under OAR 581-026-0305 by sending a notice of appeal in writing by mail, fax or e-mail or by personally delivering a copy to the Superintendent of Public Instruction. The notice must be received by the Superintendent within 10 days of the date on which the parent received notice from the district, the district did not approve enrollment of a student in a virtual public charter school. The parent must also provide a copy of the notice of appeal and any other supporting documents included with the notice to the school district prior to sending the notice of appeal to the Superintendent or within 24 hours of when the parent sent or delivered the notice of appeal to the Superintendent.

(3) The notice of appeal must include:

(a) The parent and student's name and contact information.

(b) The name of the resident school district.

(c) The name of the virtual public charter school in which the student wants to enroll.

(d) A copy of the notice of intent to enroll provided by the parent to the school district.

(e) A copy of the notice of disapproval of enrollment received by the parent from the school district.

(f) The reason for the appeal and any supporting documents including evidence the parent would like considered as part of the appeal.

(4) A school district upon receiving a notice of appeal from a parent may file a reply to the notice with the Superintendent. The reply must be received by the Superintendent within 10 days of when the school district received a copy of the notice of appeal from the parent. The school district shall provide a copy of the reply and any supporting documents included with the reply to the parent.

(5) The Superintendent shall overturn the decision of the school district to not approve the enrollment of the student if the Superintendent determines that:

(a) The school in which the student intends to enroll is not a virtual public charter school.

(b) The resident school district does not have more than three percent of the resident students of the district enrolled in virtual public charter schools not sponsored by the district.

(c) The parent did not receive the notice of disapproval from the district within 14 days of when the parent sent the district the notice of intent to enroll.

(6) The Superintendent may consider the following in deciding whether to uphold or overturn a decision of the school district to not approve the enrollment of a student:

(a) The health and safety of the student.

(b) The student's educational needs and interests.

(c) The availability of other online options to the student.

(d) Any other information that the Superintendent deems relevant to the decision.

(7) The Superintendent shall issue a final order within 30 days of receiving the notice of appeal from the parent. The Superintendent shall send a copy of the final order to the parent, the school district and the virtual public charter school.

Stat. Auth.: ORS 338.025

Stats. Implemented: ORS 338.125

Hist.: ODE 11-2011(Temp), f. & cert. ef. 8-23-11 thru 2-19-12; ODE 19-2011, f. & cert. ef. 12-15-11; Renumbered from 581-020-0343, ODE 10-2014, f. & cert. ef. 2-19-14

581-026-0400

Process to Renew Charter

(1) A public charter school governing body must request renewal of the charter (contract) by the sponsor in writing at least 180 days before expiration of the charter.

(2) When a sponsor has received a written request from a public charter school governing body, the sponsor must schedule and hold a public hearing on the renewal request within 45 days from the receipt of the request for renewal.

(3) Within 30 days after the public hearing, the sponsor must either:

(a) Renew the charter; or

(b) State in writing the reasons for denying the renewal of the charter.

(4)(a) A sponsor must base its decision to renew or not renew a charter on a good faith evaluation of whether the charter school:

(A) Is in compliance with state and federal laws;

(B) Is in compliance with the terms of the prior charter;

(C) Is meeting or working toward meeting the student performance goals and agreements specified in the charter or any other written agreements between the sponsor and the public charter school governing body;

(D) Is fiscally stable and evidence that a sound financial management system described in the proposal submitted under ORS 338.045 and incorporated into the written charter was used; and

(E) Is in compliance with any renewal criteria specified in the previous charter, if any.

(b) As used in this section, "good faith evaluation" means an evaluation of all criteria required by this section resulting in a conclusion that a reasonable person would come to who is informed of the law and the facts before that person.

(5) The sponsor must base the evaluation described in subsection (4) of this rule primarily on a review of the public charter school's annual performance reports, annual audit of accounts and annual site visit and review as required by ORS 338.095 and any other information mutually agreed upon by the public charter school governing body and the sponsor.

(6)(a) If the sponsor renews the charter, the sponsor and public charter school governing body shall negotiate in good faith a new charter within 90 days after the date on which the sponsor approved the renewal of the charter, unless both parties agree to an extension of time.

(b) If the sponsor and the charter school governing body have not executed a new charter agreement within 90 days after the date on which the sponsor approved the renewal of the charter or an

alternative date agreed to by both parties, the expiring charter shall remain in effect until a new charter is negotiated.

(c) As used in this section, "negotiate in good faith" means to negotiate with an honest exchange of the facts of the matters under consideration with a view to obtaining agreement of each of the parties involved.

(7) If the sponsor does not renew the charter, the public charter school governing body may address the reasons for nonrenewal and resubmit its request to the sponsor within 30 days after the date on which the sponsor notified the public charter school governing body of the decision not to renew the charter. If a sponsor receives a revised request under this section, the sponsor shall review the request using the process required by subsections (2) to (6) of this rule. A public charter school governing board may only submit a revised request once under this section unless otherwise specified by the sponsor.

(8) Notwithstanding subsections (1) to (7) of this rule, a sponsor and a public charter school governing body may agree in the charter of the school to a timeline for renewing the charter that is different from the timeline required by subsections (1) to (7) of this rule.

(9) The State Board of Education delegates to the Superintendent of Public Instruction or designee all administrative functions necessary or reasonable in order to determine if the charter of a school sponsored by the state board should be renewed. The Superintendent or designee shall follow the procedures and timelines required by this rule. This delegation to the Superintendent or designee includes, but is not limited to:

(a) Determining the form, contents, and timelines of the renewal;

(b) Determining the records required for determining the renewal and ordering the production of those records from the public charter school governing body and establishing timelines for the production of those records;

(c) Requiring the charter school governing body to respond to written or oral inquiries related to the sponsorship;

(d) Delegating the sponsorship function to Department of Education staff or a hearings officer to conduct a hearing and to issue a proposed order; and

(e) Issuing a final order.

(10) If the sponsor does not renew the charter based on the revised request for renewal submitted under subsection (7) of this rule, the public charter school governing body may:

(a) If the sponsor is a school district, appeal the decision of the sponsor to the State Board of Education under OAR 581-026-0405.

(b) If the sponsor is the State Board of Education, seek judicial review of the final order under ORS 183.484.

Stat. Auth.: ORS 338.025

Stats.. Implemented: ORS 338.065

Hist.: ODE 9-2008, f. & cert. ef. 3-21-08; ODE 15-2009(Temp), f. & cert. ef. 12-10-09 thru 6-8-10; Administrative correction 6-25-10; ODE 11-2010, f. & cert. ef. 6-30-10; ODE 35-2013, f. & cert. ef. 12-18-13; Renumbered from 581-020-0359, ODE 10-2014, f. & cert. ef. 2-19-14

581-026-0405

Appeal of Sponsor's Decision Not to Renew a Charter

(1) Within 30 days of receiving notice from a sponsor that the sponsor has decided not to renew the charter (contract) based on a revised request for renewal, a public charter school governing body may request the State Board of Education review the decision by the sponsor not to renew a charter. Any notice of a request for State Board review must be made in writing and be delivered to the State Board of Education and the business address of the sponsor.

(2) The decision of a sponsor not to renew a charter must be based on a good faith evaluation of the factors set out in ORS 338.065(6) and must utilize the process set out in 338.065(4) and OAR 581-026-0400.

(3) The State Board, State Superintendent or designee will review the decision of a sponsor not to renew a charter for compliance with the requirements of subsection (2) of this rule.

(4) The State Board of Education delegates to the Superintendent of Public Instruction or designee all administrative functions

necessary or reasonable in order to conduct a timely review of the decision of the sponsor to not renew a charter. This delegation to the Superintendent includes, but is not limited to:

- (a) Determining the form, contents, and timelines of the petition for review;
 - (b) Determining the records required for review and ordering the production of those records from either the public charter school governing body or school district board and establishing timelines for the production of those records;
 - (c) Requiring the public charter school governing body or school district board to respond to written or oral inquiries related to board review;
 - (d) Delegating the review function to department staff or a hearings officer conduct the review and issue a proposed order; and
 - (e) Issuing a final order.
- (5) If the State Superintendent or designee finds that the sponsor made the decision to not renew a charter based on a good faith evaluation of the factors set out in ORS 338.065(6) and utilized the process set out in 338.065(4), a final order will be issued to uphold the decision of the sponsor.

(6) If the State Superintendent or designee finds that the sponsor did not make the decision to not renew a charter based on a good faith evaluation of the factors set out in ORS 338.065(6), did not utilize the process set out in 338.065(4) or both, a final order will be issued to order the sponsor to reconsider the request for renewal utilizing the process and requirements set out in OAR 581-026-0400.

(7) The State Superintendent or designee shall issue the final order within 60 days from the receipt of the request for review, unless both parties agree to a different timeline.

(8) If a school district on reconsideration ordered under subsection (6) of this rule does not renew the charter, the sponsor's decision may be appealed under the provisions of ORS 183.484.

(9) A charter school that requested renewal of its charter by the sponsor in writing at least 180 days before expiration of the charter shall remain open under the terms of its charter, unless otherwise agreed to by the charter school and the sponsor, until one or more of the following occurs:

- (a) The sponsor and the charter school execute a new charter.
- (b) The sponsor denies the renewal of the charter and the time period for the charter school to resubmit a renewal request or appeal the decision to the State Board of Education has lapsed.
- (c) The State Superintendent or designee issues a final order to uphold the decision of the sponsor to not renew.
- (d) The State Superintendent or designee issues a final order that orders the school district to reconsider the decision to non-renew and the school district again notifies the charter school of a nonrenewal.
- (e) A court orders the closure of the school.

(f) The charter of the school is terminated under ORS 338.105 and OARs 581-026-0500 and 581-026-0505.

Stat. Auth: ORS 326.051

Stats. Implemented: ORS 338.065

Hist.: ODE 9-2008, f. & cert. ef. 3-21-08; Renumbered from 581-020-0361, ODE 10-2014, f. & cert. ef. 2-19-14

581-026-0500

Process for Sponsor to Terminate Charter

- (1) A sponsor may terminate a charter for failure to:
 - (a) Meet the terms of the approved charter or any requirement of ORS Chapter 338, unless waived by the State Board of Education;
 - (b) Meet the requirements for student performance as established in the approved charter;
 - (c) Correct any violation of a federal or state law described in ORS 338.115;
 - (d) Maintain insurance as described in the approved charter;
 - (e) Maintain financial stability; or.
 - (f) If the charter is terminated on or after July 1, 2011, failure to maintain, for one or more consecutive years, a sound financial management system described in the proposal submitted under

ORS 338.045 and incorporated into the written charter under 338.065.

(2) A sponsor intending to terminate an approved charter must:

- (a) Notify the public charter school governing body in writing at least 60 calendar days prior to the proposed effective date of the termination;
- (b) Include in the notification the grounds for the termination; and
- (c) Deliver the notice to the business address of the charter school.

(3) If the grounds for termination include failure to maintain financial stability or failure to maintain a sound financial management system, the sponsor and the public charter school may agree to develop a plan to correct deficiencies. The plan must be finalized and agreed upon within 30 days of the notice of termination. Under a plan to correct deficiencies:

(a) The sponsor shall identify a date at least 60 days from the date of the notice by which the public charter school may attempt to correct any deficiencies related to financial stability or to a sound financial management system. The deadline identified in the plan to correct deficiencies may be extended by mutual agreement of the sponsor and the public charter school;

(b) The proposed effective date of the termination may be extended to the date identified under subparagraph (a) of this paragraph.

(c) The sponsor may withhold up to 50 percent of the moneys owed to the public charter school while the public charter school is on the plan to correct deficiencies unless the withholding would create undue hardship. The sponsor shall indicate if it plans to withhold moneys within 10 days of the notice of termination.

(A) For the purpose of this section, "undue hardship" shall be defined as a significant and limiting factor in the public charter school's ability to continue operating through the duration of the plan to correct deficiencies under subparagraph (a) of this paragraph and project a positive ending fund balance for 2 consecutive fiscal years following compliance with the plan.

(B) A public charter school attempting to prove undue hardship must provide the following evidence to the sponsor within 20 days of the notice of termination:

- (i) A current balance sheet;
- (ii) A current profit and loss statement;
- (iii) All current financial statements showing assets and liabilities; and
- (iv) Any other financial documents requested by the sponsor related to the financial operation of the public charter school.

(C) The sponsor must evaluate the public charter school's evidence of undue hardship and determine whether or not to withhold any moneys within 10 days of receiving the evidence from the public charter school. If the sponsor plans to withhold moneys, the sponsor shall indicate in the plan to correct deficiencies the terms of any withholding of moneys.

(d) The sponsor must hold in trust any moneys withheld under subparagraph (c) of this paragraph until:

(A) The public charter school complies with the plan to correct deficiencies, at which time the public charter school is entitled to the moneys held in trust; or

(B) The public charter school fails to comply with the plan to correct deficiencies, at which time the charter is terminated and the public charter school forfeits any claim to the moneys held in trust.

(e) The sponsor shall apply any moneys withheld under subparagraph (c) of this paragraph if the public charter school is terminated to the debts of the public charter school. Any remaining moneys shall be returned to the state.

(4) The governing body of a public charter that has received notice from the sponsor of the sponsor's intent to terminate the charter may request a hearing by the sponsor related to a termination of the charter or a plan to correct deficiencies. Such a request must be made in writing and be delivered to the business address of the sponsor. Within 30 days of receiving the request for a hearing, the

sponsor must provide the public charter school with the opportunity for a hearing.

(5) Following a notice of termination or completion of the plan to correct deficiencies, the sponsor of a public charter school shall make a final decision whether to terminate the public charter school.

(a) If the sponsor is a school district board or the State Board, the decision must be made at a public meeting.

(b) If the sponsor is an institution of higher education, the decision must be made as defined by the institution's rules or policy.

(6) If the sponsor reasonably believes that a public charter school is endangering the health or safety of the students enrolled in the public charter school, the sponsor may act to immediately terminate the approved charter and close the public charter school without providing the notice requirements set out in subsection (4) of this rule.

(7) The governing body of a public charter that is closed under the provisions of subsection (6) of this rule may request a hearing by the sponsor. Such a request must be made in writing and be delivered to the business address of the sponsor. Within 10 days of receiving the request for a hearing, the sponsor must provide the public charter school with the opportunity for a hearing on the termination.

(8) Nothing in this rule should be construed as limiting the ability of a sponsor and a public charter school to include in the charter a procedural requirement for alternative dispute resolution prior to invoking the termination process.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 338.105

Hist.: ODE 19-2002, f. & cert. ef. 8-2-02; ODE 11-2010, f. & cert. ef. 6-30-10; Renumbered from 581-020-0380, ODE 10-2014, f. & cert. ef. 2-19-14

581-026-0505

Process to Appeal Decision by Sponsor to Terminate Charter

(1) A public charter school governing body may request the State Board of Education review the decision to terminate a charter. The State Board of Education's review shall be limited to the grounds for termination as stated by the school district board or sponsor or a plan to correct deficiencies. Any notice of a request for State Board review must be made in writing and be delivered to the State Board of Education and the business address of the sponsor.

(2) The State Board of Education delegates to the Superintendent of Public Instruction or designee all administrative functions necessary or reasonable in order to conduct a timely review. This delegation to the Superintendent includes, but is not limited to:

(a) Determining the form, contents, and timelines of the petition for review;

(b) Determining the records required for review and ordering the production of those records from either the public charter school governing body or school district board and establishing timelines for the production of those records;

(c) Requiring the public charter school governing body or school district board to respond to written or oral inquiries related to board review;

(d) Delegating the review function to a hearings officer to hold a contested case hearing under ORS 183.411 through 183.470 and issue a proposed order; and

(e) Issuing a final order that may be appealed under the provisions of ORS 183.484.

(3) The State Board, or its designee, will where possible, issue its final order within 60 days from the sponsor's notification of intent to terminate as required in ORS 338.105(2). If it is not possible to issue the final order within 60 days, the charter school shall remain open pending issuance of the final order.

(4) The governing body of a public charter school that is closed under the provisions of ORS 338.105(4) may request the State Board of Education, or its designee, to review the decision of the sponsor to terminate the charter and close the public charter school. The State Board of Education, or its designee, will hold a hearing within 10 days of receiving the request for review. The

review under this section will be accomplished under the provisions of subsection (2) of this rule and under the timelines set out in ORS 338.105(4) and, to the extent practicable, subsection (3) of this rule.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 338.105

Hist.: ODE 19-2002, f. & cert. ef. 8-2-02; Renumbered from 581-020-0385, ODE 10-2014, f. & cert. ef. 2-19-14; ODE 48-2014, f. & cert. ef. 12-17-14

581-026-0510

Process for Charter School Governing Body to Terminate Charter and Dissolve Public Charter School

The governing body of a public charter school may only terminate, dissolve or close an operating public charter school at the end of a semester. The governing body must provide the sponsor with notice of the intent to terminate the charter, and close and dissolve the public charter school, at least 180 days before the proposed date of termination, closure and dissolution. Such notice must be made in writing and be delivered to the business address of the sponsor.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 338.105

Hist.: ODE 19-2002, f. & cert. ef. 8-2-02; Renumbered from 581-020-0390, ODE 10-2014, f. & cert. ef. 2-19-14

581-026-0515

Distribution of Assets of a Terminated or Dissolved Public Charter School

(1) Assets of a terminated, closed or dissolved public charter school that were obtained with public funds will be given to the State Board of Education. The State Board of Education, at its discretion, may disburse these assets to school districts or to other public charter schools.

(2) Assets of a terminated, closed or dissolved public charter that were obtained with grant funds will be disbursed according to the terms of the grant. If the grant is absent any reference to ownership or distribution of assets, assets of a terminated, closed or dissolved public charter school will be disbursed according to the provision set out in subsection (1) of this rule.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 338.015

Hist.: ODE 19-2002, f. & cert. ef. 8-2-02; Renumbered from 581-020-0395, ODE 10-2014, f. & cert. ef. 2-19-14

581-026-0600

Public Charter School Facility Location

(1) As used in this rule:

(a) "Written notice" means written notice that is mailed, faxed, e-mailed or personally delivered by the party required to provide the written notice.

(b) "Primary physical address of the public charter school" means the physical location of the public charter school campus located within the boundaries of the sponsoring district or the district in which the public charter school originally applied under ORS 338.045.

(c) "School or facility" means a physical location that is owned, leased, or otherwise used by the public charter school where students receive instruction or educational services. As used in this rule, "school or facility" does not include the student's home.

(2)(a) For public charter schools sponsored by a school district that establish schools and facilities that are not located at the primary physical address of the charter school, the district shall retain all responsibility assigned to a sponsor by ORS Chapter 338 and OAR 581-026-0005 to 0515.

(b) Except as provided in subsection (2)(a) of this rule, if a public charter school is sponsored by the State Board of Education or an Institution of Higher Education, the district in which the primary physical address of the public charter school is located shall retain the responsibilities assigned to a district by ORS 338.155 to 338.165 and described in a contract between the district and the public charter school.

(3) The public charter school must maintain student records, board records, employment records, and other school records at the primary physical address of the public charter school.

(4) The board of a school district that is not the sponsoring school district of the public charter school may file a complaint with the Superintendent of Public Instruction pursuant to ORS 332.158(3) against the public charter school if:

(a) The public charter school opens or operates a school or facility within the boundaries of that district; and

(b) The public charter school did not provide written notice to the district school board of use of the school or facility prior to the first day on which students will attend classes in the school or receive instruction at the facility; and

(c) The public charter school or facility was not already in operation on January 1, 2016.

(5) The complaint must be in writing and may be delivered by mail, fax or e-mail or by personally delivering a copy to the Superintendent of Public Instruction and must contain:

(a) The name of the school district making the complaint;

(b) The name and contact information of a member of the board or district staff person who will act as primary contact for the complaint;

(c) The name of the public charter school operating the facility;

(d) The primary physical address of the public charter school operating the facility;

(e) The physical address of the school or facility being operated by the public charter school in the offended district; and

(f) A brief statement explaining the facts underlying the complaint.

(6) The school district board must provide written notice of the complaint by mail, fax, e-mail or personal delivery to the public charter school and the sponsoring district on the same date the complaint is provided to the superintendent.

(7) Upon receipt of the complaint the superintendent shall schedule a contested case hearing pursuant to ORS 183.413 to 183.470.

(8) Upon a finding that the public charter school has operated a school or facility in the school district without providing the board of the school district written notice:

(a) The superintendent shall withhold State School Fund moneys due to the public charter school under ORS 338.155.

(b) The superintendent shall withhold moneys until the written notice is provided by the public charter school to the district school board, and a copy of the written notice is provided to the public charter school's sponsoring district and the superintendent.

Stat. Auth.: ORS 338.025

Stat. Implemented: ORS 332.158, ch. 338

Hist.: ODE 37-2016, f. & cert. ef. 7-18-16

DIVISION 27

SCHOOL CONSTRUCTION MATCHING PROGRAM

581-027-0005

Definitions

The following definitions and abbreviations apply to rules within OAR 581, Div 27:

(1) "Adjusted Assessed Property Value Per ADM" means the value calculated per OAR 581-027-0010 to determine the ranking of Districts on the Priority List for Funding.

(2) "ADM" means Average Daily Membership.

(3) "ADMr" or "Resident Average Daily Membership" means average daily membership as calculated under OAR 581-023-0006(6)-(7).

(4) "Assessed Value" means the total assessed value of all tangible property within the boundaries of the District as published by the Oregon Department of Revenue.

(5) "Average Daily Membership" means the number of students in a District as calculated under ORS 327.061 and

includes all weights, and extended Average Daily Membership weighted, as calculated under ORS 327.013(1)(c).

(6) "Certified Contractor" means an entity or person who has gone through the process established by the Department that will certify the entity or person is qualified to perform the work.

(7) "Closing" means the date on which a District receives some or all of the proceeds of its Local GO Bonds.

(8) "Date Stamp" means electronic or mechanical means of imprinting documents with date and time the document is received by the Department.

(9) "Department" means the Oregon Department of Education.

(10) "District" or "Districts" means school districts, as defined in ORS 328.001(3), that are eligible to apply for a State Matching Grant.

(11) "Facility Assessment" means an assessment conducted by a Certified Contractor that evaluates one or more facilities in a school district according to the requirements set forth in OAR 581-027-0035.

(12) "First in Time" means that portion of the Oregon School Capital Improvement Matching Account that is to be awarded to Districts based on the order in which the Department receives the applications.

(13) "Funding Cycle" means the period of time, as determined by the Department under OAR 581-027-0020(2)(b), before and after a May or a November general election during which the Department will accept applications and issue commitments for State Matching Grants under the OSCIM Program.

(14) "Gross Square Footage" means the total square footage of the building as measured by the outside wall of the building.

(15) "Guaranteed Tax Base Amount" or "GTBA" means a theoretical tax base of \$1,000,000 per ADM.

(16) "Guaranteed Tax Rate Amount" means \$1,000 which is the GTBA multiplied by .001 for \$1 of tax per \$1,000 of Assessed Value.

(17) "Local GO Bonds" means general obligation bonds approved by voters for the benefit of a District during the Funding Cycle for which the District applied for a State Matching Grant.

(18) "Long-Range Facility Plan" means a plan conducted by a Certified Contractor that determines the long-range needs and goals of a district according to the requirements set forth in OAR 581-027-0040

(19) "Oregon School Capital Improvement Matching Account" means an interest bearing account established in the State Treasury, separate and distinct from the General Fund, that consists of net proceeds from Article XI-P bonds issued under Article XI-P (School District Capital Costs) of the Oregon Constitution.

(20) "Oregon School Capital Improvement Matching Program" or "OSCIM Program" means the program created by Article XI-P of the Oregon Constitution and ORS 286A.769 to 286A.806.

(21) "Priority List" means the list created by the Department each biennium pursuant to ORS 286A.801 and the formula outlined in OAR 581-027-0010.

(22) "Seismic Assessment" means an assessment conducted by a contractor that evaluates one more facilities in a School District according to the requirements set forth in OAR 581-027-0050.

(23) "State Matching Grant" means the grant funds provided by the State through the OSCIM Program to match the proceeds of a District's Local GO Bonds.

(24) "Students in Poverty" means the number of children, age 5 to 17, in families in poverty as described by the Small Area Income Poverty Estimate published by the U.S. Census Bureau.

(25) "Technical Assistance Grant" means a grant provided by the Department to a School District such that a school district can conduct a Facility Assessment, Long-Range Facility Plan, or Seismic Assessment.

(26) "Waiting List" means the list of Districts not initially awarded a State Matching Grant, based on either the District's position on the Priority List or the District's First in Time status, during any Funding Cycle.

Stat. Auth.: Sec. 2 & 5, Ch.783, OL 2015 (Enrolled SB 447).

Stats. Implemented: Sec. 2, 4 & 5, Ch. 783, OL 2015 (Enrolled SB 447).
Hist.: ODE 30-2016, f. & cert. ef. 4-28-16; ODE 41-2016, f. & cert. ef. 7-20-16

581-027-0010

Calculations for Oregon School Capital Improvement Matching Program Priority List

(1) For each Funding Cycle, the Department shall provide State Matching Grants to Districts from designated resources in the Oregon School Capital Improvement Matching Account. The Department shall determine and apportion the amount of available resources among the Funding Cycles in each biennium. The total amount of State Matching Grant funds available and awarded by the Department may vary during each Funding Cycle.

(2) Sixty percent (60%) of designated grant resources in the Oregon School Capital Improvement Matching Account shall be awarded based on the Priority List.

(3) The Priority List shall be based on a District's Assessed Value, percentage of Students in Poverty, and Average Daily Membership.

(4) The Department shall update the Priority List at the beginning of each biennium. To update the list, the Department will use the data from the most recent year for which all three sources have reported actual data.

(5) The Priority List shall be calculated as follows:

(a) The District's Students in Poverty shall be multiplied by 20 to determine the Weighted Number of Students in Poverty.

(b) The District's Weighted Number of Students in Poverty shall be divided by the District's ADM to arrive at the District's Percentage of Students in Poverty.

(c) The District's Assessed Value shall be divided by the District's ADM to determine the District's Assessed Property Value per ADM.

(d) The District's Assessed Property Value per ADM shall then be divided by 1 plus the Percentage of Students in Poverty to determine the District's Adjusted Assessed Value per ADM.

(e) The Districts will be ranked from the smallest Adjusted Assessed Property Value per ADM to the highest. This ranking will ensure Districts with the highest rate of students in poverty and lowest assessed property wealth per ADM are provided the greatest chance for a State Matching Grant.

Stat. Auth.: Sec. 2 & 5, Ch.783, OL 2015 (Enrolled SB 447).

Stats. Implemented: Sec. 2, 4 & 5, Ch. 783, OL 2015 (Enrolled SB 447).

Hist.: ODE 30-2016, f. & cert. ef. 4-28-16

581-027-0015

Calculations for Oregon School Capital Improvement Matching Program Funding Formula

(1) The Department shall provide State Matching Grants to Districts from available resources in the Oregon School Capital Improvement Matching Account.

(2) Sixty percent (60%) of the available resources in the Oregon School Capital Improvement Matching Account for a biennium shall be awarded based on the Priority List.

(3) Forty percent (40%) of the available resources in the Oregon School Capital Improvement Matching Account for a biennium shall be awarded based on the order in which applications are received during the application period established by the Department for the Funding Cycle.

(4) The Department shall use a funding formula to determine the amount of State Matching Grant funds each District is eligible to receive from the Oregon School Capital Improvement Matching Account. This funding formula will be used to determine eligibility for State Matching Grants awarded through both the Priority List and First in Time application process.

(5) Districts whose voters pass \$4,000,000 or less in Local GO Bonds for District facility projects shall be eligible for a one-to-one match from State Matching Grant funds.

(6) Districts whose voters pass more than \$4,000,000 in Local GO Bonds for District facility projects, shall be eligible for at least \$4,000,000 and no more than \$8,000,000 based on the following formula:

(a) The District's Adjusted Assessed Property Value per ADM as determined by OAR 581-027-0010 shall be multiplied by the assumed tax rate of .001 (\$1 per \$1000 of assessed property value) to calculate the District's Estimated Local Bond Revenue per ADM.

(b) The Estimated Local Bond Revenue per ADM shall be subtracted from the Guaranteed Tax Rate Amount to determine the amount of eligible State Matching Grant funds per ADM.

(c) The eligible State Matching Grant funds per ADM shall be multiplied by the District's ADM to determine the maximum amount of State Matching Grant funds for which a District is eligible.

(7) In no case will the amount of a State Matching Grant exceed the lesser of the proceeds of the District's Local GO Bonds or the principal amount of the District's Local GO Bonds.

(8) Local GO Bonds used by a District to qualify for the OSCIM Program must be Closed within six months of the date of the election at which the Local GO Bonds were approved.

Stat. Auth.: Sec. 2 & 5, Ch.783, OL 2015 (Enrolled SB 447).

Stats. Implemented: Sec. 2, 4 & 5, Ch. 783, OL 2015 (Enrolled SB 447).

Hist.: ODE 30-2016, f. & cert. ef. 4-28-16

581-027-0020

Oregon School Capital Improvement Matching Program Application

(1) The Department shall create one application for Districts to apply for State Matching Grants from the Oregon School Capital Improvement Matching Account.

(2) The Department shall post the following on the Department's web page:

(a) The application prior to when each Funding Cycle begins;

(b) The beginning and end dates of each Funding Cycle for the next two Funding Cycles;

(c) The first date of the Funding Cycle on which the Department shall accept applications. No applications will be accepted prior to this date for a Funding Cycle; and

(d) The last date of the Funding Cycle on which the Department will accept applications.

(3) Applicants may either submit their application to the Department electronically through secure file transfer protocol or by delivering in person. Districts may submit applications only for an open and current Funding Cycle. The Department will not accept applications for later Funding Cycles.

(4) The Department shall:

(a) Date stamp all applications based on the time they are received by the Department; and

(b) Reject all incomplete applications.

(c) A District may not re-submit in the same Funding Cycle a revised or corrected application after the District has determined the original application was incomplete or otherwise not accepted for a funding commitment.

(5) The Department shall:

(a) Rank complete applications from Districts for each Funding Cycle according to the Priority List formula;

(b) Make funding commitments to Districts with the highest ranking on the priority list until sixty percent of the available resources for that Funding Cycle are used.

(c) Make funding commitments to the remaining Districts in accordance to the First in Time process for that Funding Cycle and based on the order in which the Department receives applications.

(6)(a) In order to promote equity across the state, the Department shall deem all applications received within a specified period of time for each Funding Cycle as being received at the same time. The Department shall establish multiple periods as necessary for the reception of applications as follows:

(A) Those applications received within the first time period shall be deemed to be the first in time for purposes of award commitments.

(B) Those applications received in subsequent time periods will be deemed to be received in order of the established time periods.

(b) The Department shall commit First in Time funding to Districts based on which time period the District is deemed to have submitted their application.

(c) If the First in Time funding is insufficient to provide a commitment to all Districts within a given time period for that Funding Cycle, the Department shall randomly select the Districts by a lottery process to determine which Districts will receive an award commitment.

(d) The lottery process shall be determined by the Department.

(e) All lottery results are final.

(7) The Department shall notify Districts that receive a funding commitment from the Oregon School Capital Improvement Matching Account within two weeks of the close of the application period for a Funding Cycle.

(8) The Department shall post the eligibility and ranking of all Districts that applied during that Funding Cycle on the Department's website. Districts that applied but did not receive a commitment will be notified of where they fall on the Waiting List.

(9) All funding commitments are contingent upon the District subsequently Closing the required Local GO Bonds within 6 months of that Funding Cycle's bond election.

(10) Any Districts on the Waiting List may choose to move forward seeking voter approval for Local GO Bonds in that Funding Cycle with the understanding that State Matching Grant funds may become available for that Funding Cycle if a District that has received a commitment is unsuccessful in passing their Local GO Bonds.

(11) All funding commitments to Districts that successfully pass their Local GO Bonds in the Funding Cycle will be officially awarded a State Matching Grant upon the execution of a grant agreement prescribed by the Department.

(12) All funding commitments to Districts that are not successful in passing their Local GO Bonds may be recommitted to Districts that have successfully passed Local GO Bonds and are on the Waiting List for that Funding Cycle.

(13) Funding commitments will not carry over from one Funding Cycle to the next. Funding commitments for future Funding Cycles will only be made to Districts that reapply during the designated application period for that Funding Cycle.

(14) All decisions of the Department regarding the completeness of the application or ranking under either the Priority List or First in Time process are final.

(15) Any funding remaining after all awards have been made for a Funding Cycle shall be moved forward to the next Cycle.

Stat. Auth.: Sec. 2 & 5, Ch. 783, OL 2015 (Enrolled SB 447).

Stats. Implemented: Sec. 2, 4 & 5, Ch. 783, OL 2015 (Enrolled SB 447).

Hist.: ODE 30-2016, f. & cert. ef. 4-28-16

581-027-0025

Oregon School Capital Improvement Matching Program Grant Restrictions

(1) A District that receives a State Matching Grant will be ineligible for additional State Matching Grant funds for the next three Funding Cycles after the Funding Cycle in which the District was awarded the State Matching Grant.

(2) A District may not use State Matching Grant funds to refinance general obligation bonds issued by the District.

(3) A District must use State Matching Grant funds for capital costs as defined in ORS 286A.796(3).

(4) A District may use State Matching Grant funds to reimburse the District for capital costs incurred by the District prior to the Funding Cycle in which the District was awarded a grant only if:

(a) the Department approves the use of State Matching Grant funds for such purpose; and

(b) The District complies with all requirements of the OSCIM Program.

(c) The Department's approval or disapproval of the use of State Matching Grant funds is final. A District may not submit a revised request for use of funds.

(5) State Matching Grant funds shall be used only to match the proceeds of Local GO Bonds authorized by an election in the same Funding Cycle in which the District applied for State Matching Grant funds.

(6) If there are State Matching Grant funds available for disbursement after all the awards for all the Funding Cycles in a biennium have been made, the Department may award those uncommitted funds by lottery to Districts that have applied for State Matching Grant funds during the biennium and have Local GO Bond proceeds available to use as a basis for a match so long as the Local GO Bonds from which the proceeds are derived were approved by the voters during the biennium.

Stat. Auth.: Sec. 2 & 5, Ch. 783, OL 2015 (Enrolled SB 447).

Stats. Implemented: Sec. 2, 4 & 5, Ch. 783, OL 2015 (Enrolled SB 447).

Hist.: ODE 30-2016, f. & cert. ef. 4-28-16

581-027-0030

Technical Assistance Grant Program Procedures

(1) The Department shall establish timelines for when Districts may submit an application for a Technical Assistance Grant.

(2) The Department shall establish a separate application for the Facility Assessment, Long-Range Facility Plan, and Seismic Assessment.

(3) Each District may submit one application for each type of assessment.

(4) All districts are eligible for each type of assessment.

(5) All applications are due by the date established by the Department. No late applications will be accepted.

(6) The Department shall evaluate each completed application by awarding preference points as established by this rule.

(7) An application will receive 1 point for preference that the application meets.

(8) An application will receive a final score that is the total of the application's points.

(9) Applications will be funded from highest to lowest score.

(10) If there is not enough funding to provide a Technical Assistance Grant to all applications that have equal scores, then the Department shall create a lottery to determine which applications will receive a Technical Assistance Grant.

(11) The preference points for the Facility Assessment are:

(a) District has 25% or more of its ADMr identified as Students in Poverty. The number of Students in Poverty shall be same as used in OAR 581-027-0010;

(b) District has under 2,500 ADMr according to the annual reports for the same school year as used to calculate the Priority List under OAR 581-027-0010 ;

(c) District has not conducted a Facility Assessment in the last 10 years;

(d) District has not passed a general obligation bond in the last 15 years; and

(e) District's ADMr has changed by 10% or more over the last 5 years based on the latest annual reports submitted to the Department.

(12) The preference points for the Long-Range Facility Plan are:

(a) District has 25% or more of its ADMr identified as Students in Poverty. The number of Students in Poverty shall be same as used in OAR 581-027-0010;

(b) District has under 2,500 ADMr according to the annual reports for the same school year as used to calculate the Priority List under OAR 581-027-0010;

(c) District has not conducted a Long-Range Facility Plan in the last 10 years;

(d) District has not passed a general obligation bond in the last 15 years; and

(e) District's ADMr has changed by 10% or more over the last 5 years based on the latest annual reports submitted to the Department.

(13) The preference points for the Seismic Assessment are:

(a) District has 25% or more of its ADMr identified as Students in Poverty. The number of Students in Poverty shall be same as used in OAR 581-027-0010;

(b) District has under 2,500 ADMr according to the annual reports for the same school year as used to calculate the Priority List under OAR 581-027-0010;

(c) District has not conducted an assessment for an Oregon Infrastructure Finance Authority Seismic Rehabilitation Grant;

(d) District identifies a number of schools it intends to assess and at least 50% are listed as "High" or "Very High" for collapse potential in the Rapid Visual Survey created by the Department of Geology and Mineral Industries;

(e) District's Mapped Spectral Acceleration for 1-second period (Ss) is greater than 0.6 as calculated by the United State Geological Survey and published on the USGS website for the district's central office.

(14) A District may use an assessment performed before the start of the application period as a basis for an application, during the 2015-17 biennium, for a Technical Assistance Grant so long as:

(a) The District conducts the assessment according to the standards set forth in these rules;

(b) The District signed the contract for the work after July 1, 2015;

(c) The District used a Certified Contractor to conduct the assessment; and

(d) The District provides the Department with an electronic copy of the assessment in the format established by the Department.

(15) For the first application period of the 2015-17 biennium, the Department will waive requirements 14(c).

(16) Each District that submits an application that receives a Technical Assistance Grant will be required to enter into a grant agreement with the Department prior to issuance of funds.

(17) A District must reapply each time a new grant application is announced if a District did not receive a grant in a grant application period.

(18) Each District that receives a Technical Assistance Grant must submit an electronic copy of the finished report in form to be established by the Department.

Stat. Auth.: Sec. 2 and 5, Ch. 783, OL 2015 (Enrolled Senate Bill 447).

Stats. Implemented: Sec. 5, Ch. 783, OL 2015 (Enrolled Senate Bill 447).

Hist.: ODE 41-2016, f. & cert. ef. 7-20-16

581-027-0035

Facility Assessment Requirements

(1) Each Facility Assessment shall contain the following information:

(a) Building Information

(A) Name of building;

(B) Building ID Number;

(C) Physical Address;

(D) Gross Square Footage;

(E) Original Construction Date;

(F) Original Construction Type;

(G) Additions:

(i) Construction Date;

(ii) Construction Type;

(iii) Construction Square footage;

(iv) Construction Usage;

(H) Renovations:

(i) Construction Date;

(ii) Construction Type;

(iii) Construction Square footage; and

(iv) Renovation Construction Usage.

(b) Infrastructure Assessment

(A) UNIFORMAT II Assessment: An assessment of each applicable building element as listed in the American Society for Testing and Materials (ASTM) UNIFORMAT II Classification (October 1999) of Building Elements Level 3 that provides the following:

(i) ASTM Number;

(ii) System Name;

(iii) Description of System;

(iv) Number of systems or square footage of system in need of repair or want of replacement;

(v) Level of repair/replacement needed as follows. The percent of the building affected should be noted to assist in cost estimating:

(I) None: The system or finish shows signs of wear, but no capital action necessary;

(II) Minor: The system or finish has a symptom that has not yet appreciably affected performance but will if left unmitigated;

(III) Moderate: The system or finish is showing signs of fatigue and performance is observably deteriorated;

(IV) Major: The system functions sporadically, requiring replacement or upgrade of components to the system to extend the life of the system. Finishes are not categorized as Major, but advance to Replace;

(V) Replace: The integral components of the system or finish are in complete failure and no longer function.

(VI) Notes as to what specifically needs to be done to repair or replace the system.

(B) Additional items

(i) A safety and security analysis of the facility that determines if the facility meets current best practices for providing a safe and secure environment;

(ii) An ADA assessment and listing of deficiencies;

(iii) Assessment of technology infrastructure in the facility including bandwidth, presence of wireless networks, and other means of providing access to information technology;

(iv) Assessment of indoor air quality; and

(v) Presence of harmful substances such as lead or asbestos in the facility based on district reports.

(c) Value Assessment

(A) The current replacement value of the building using cost per square foot standards as determined by the Department and updated annually.

(B) The Facilities Condition Index of the building as calculated by dividing the total estimated construction costs to completely repair the building by the current replacement value of the building.

(2) The Department shall establish a template for Districts and their Certified Contractors to use to collect the information required in (1).

(3) Districts and Certified Contractors shall use the template established by the Department to provide the final report to the Department in electronic format.

Stat. Auth.: Sec. 2 and 5, Ch. 783, OL 2015 (Enrolled Senate Bill 447).

Stats. Implemented: Sec. 5, Ch. 783, OL 2015 (Enrolled Senate Bill 447).

Hist.: ODE 41-2016, f. & cert. ef. 7-20-16

581-027-0040

Long-Range Facility Plan Requirements

(1) Each Long Range Facility Plan shall contain the following information:

(a) Population projections by school age group for the next ten years using U.S. Census or Census partner data.

(b) Collaboration with local government planning agencies (city and/or county):

(A) Identification of suitable school sites if needed

(B) Site acquisition schedules and programs

(c) Evidence of community involvement in determining:

(A) Educational vision of local community

(B) Proposals to fund long-range facility needs

(d) Identification of buildings on historic preservation lists including the National Historic Register, State Historical Preservation Office, and local historic building lists.

(e) Analysis of district's current facilities' ability to meet current national educational adequacy standards:

(A) Identification of facility standards used to meet district educational vision as well as national educational adequacy standards

(B) Identification of deficiencies in current facilities

(C) Identification of changes needed to bring current facilities up to standards

(D) Identification of alternatives to new construction and major renovation to meet current national educational adequacy standards

(E) Identification of current facility capacity and ability of current capacity to meet current national educational adequacy standards.

(F) A description of the plan the district will undertake to change its facility to match the projections and needs for the district for the next ten years.

(2) The Department shall establish a template for Districts and their Certified Contractors to use to collect the information required in OAR 581-027-0040 (1).

(3) Districts and Certified Contractors shall use the template established by the Department to provide the final report to the Department in electronic format.

Stat. Auth.: Sec. 2 and 5, Ch. 783, OL 2015 (Enrolled Senate Bill 447).

Stats. Implemented: Sec. 5, Ch. 783, OL 2015 (Enrolled Senate Bill 447).

Hist.: ODE 41-2016, f. & cert. ef. 7-20-16

581-027-0045

Seismic Assessment Requirements

(1) Each Seismic Assessment shall contain the following:

(a) Name of building.

(A) Gross square footage of building.

(B) Physical address.

(C) Original construction date.

(D) Original construction type.

(E) Additions:

(i) Construction Date;

(ii) Construction Type;

(iii) Construction Square footage;

(iv) Construction Usage;

(v) Procedures used to determine the building's ability to perform to the Life Safety Standard in ASCE 41-13.

(vi) Evaluation of building using either ASCE 41-13 Tier I or Tier II evaluations methods except the levels of earthquake ground motion will be not less than 75% of BSE-1N design level earthquake per ASCE 41-13 section 2.4.1.2; instead of the 20% in 50 year ground motion used in the ASCE 41-13 standard.

(I) List of deficiencies that need to be corrected to bring building up to the Life Safety Standard listed in ASCE 41-13.

(II) List of schematic rehabilitation tasks to rectify listed deficiencies in accordance with ACSE 41-13 standard.

(III) List of portions of building that pose highest life safety threat and collapse potential of those building portions.

(IV) Cost estimate provided by professional with knowledge about the type of work to be done that includes contingencies built into all budget categories.

(V) Certification of the final assessment provided by registered Structural Engineer licensed in the State of Oregon.

(2) The Department shall establish a template for Districts and their Certified Contractors to use to collect the information required in (1).

(3) Districts and Certified Contractors shall use the template established by the Department to provide the final report to the Department in electronic format.

Stat. Auth.: Sec. 2 and 5, Ch. 783, OL 2015 (Enrolled Senate Bill 447).

Stats. Implemented: Sec. 5, Ch. 783, OL 2015 (Enrolled Senate Bill 447).

Hist.: ODE 41-2016, f. & cert. ef. 7-20-16

581-027-0050

Contractor Certification Program

(1) The Department shall establish a program whereby entities or individuals can apply to become Certified Contractors for the purposes of the Technical Assistance Grants.

(2) The program shall contain a portion of instruction on the methods to be used by Certified Contractors in performing Facility Assessment and Long-Range Facility Plan work.

(3) The program shall contain a test such that those that pass will become Certified Contractors.

(4) The Department shall post on its website specific information for each time the training program is held.

(5) No entity or individual may become a Certified Contractor unless they complete the training program established by the Department.

Stat. Auth.: Sec. 2 and 5, Ch. 783, OL 2015 (Enrolled Senate Bill 447).

Stats. Implemented: Sec. 5, Ch. 783, OL 2015 (Enrolled Senate Bill 447).

Hist.: ODE 41-2016, f. & cert. ef. 7-20-16

DIVISION 37

EDUCATIONAL ASSISTANTS

NOTE: This division applies to all educational assistants including those who work in general education, special education, Title I, Part A of the federal Elementary and Secondary Education Act, and Early Childhood/Early Childhood Special Education programs.

581-037-0005

Definitions

The definitions below apply to OAR 581-037-0005 to 581-037-0025:

(1) "Educational assistant" means an educational assistant as defined in ORS 342.120. The terms "paraprofessional" and "instructional aide" have the same meaning as "educational assistant".

(2) "Early Childhood Specialist" means a person as defined in OAR 581-015-2905.

(3) "Early Childhood Supervisor" means a person as defined in OAR 581-015-2910.

(4) "Related service provider" means a person registered, certified or licensed by the State of Oregon as qualified to provide a particular related service, as defined in ORS 343.035, that requires State registration, certification or licensing.

(5) "Title I, Part A (I-A)" means a supplemental federally funded program under the Elementary and Secondary Education Act.

(6) "Title I-A educational assistant" means an educational assistant employed or contracted in:

(a) A Title I-A targeted assisted school and is paid in whole or in part with Title I, Part A funds; or

(b) A Title I-A school-wide program school; or

(c) A school district expending Title I, Part A funds to provide instructional support to a public school teacher who provides equitable services to eligible private school children.

(7) "Teacher" means a teacher as defined in ORS 342.120.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051, 342.120 & 343.041

Hist.: 1EB 118, f. 11-28-67, ef. 12-25-67; 1EB 131, f. 5-12-72, ef. 6-1-72; 1EB 227, f. & ef. 6-4-76; 1EB 15-1980, f. & ef. 6-9-80; EB 7-1990, f. & cert. ef. 1-26-90; ODE 10-2010, f. & cert. ef. 6-30-10

581-037-0006

Qualifications of Educational Assistants

(1) All educational assistants or others employed or contracted in that capacity must:

(a) Have a high school diploma or the equivalent;

(b) Be at least 18 years of age; and

(c) Have standards of moral character as required of teachers (OAR 584-005-0005).

(2) In addition to the qualifications listed in section (1) of this rule, educational assistants providing translation services must have demonstrated proficiency and fluency, knowledge of and the ability to provide accurate translations from a language other than English into English and from English into a language other than English.

(3) In addition to the qualifications listed in section (1) of this rule, Title I-A educational assistants must have:

(a) Completed two years of study at an institution of higher education; **or**

(b) Obtained an Associate's (or higher) degree; **or**

(c) Met a rigorous standard of quality and demonstrate through a formal state, or local academic assessment or para-educator certificate program, knowledge of and the ability to assist in instructing:

**WORKFORCE 2000 VOCATIONAL
TECHNICAL EDUCATION PROGRAM**

- (A) Reading, writing, and mathematics; or
 (B) Reading readiness, writing readiness, and mathematics
 readiness, as appropriate.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: 1EB 227, f. & ef. 6-4-76; 1EB 20-1980(Temp), f. & ef. 7-15-80; 1EB 5-1981, f. & ef. 2-12-81; EB 7-1990, f. & cert. ef. 1-26-90; ODE 10-2010, f. & cert. ef. 6-30-10

581-037-0015**Assignment and Direction and Supervision of Educational Assistants**

(1) The educational assistant shall assist a teacher or Early Childhood Specialist or Supervisor or related service provider only in a supportive capacity. The role of the educational assistant is adaptable to many support tasks, and nothing in these rules should be interpreted as limiting assistants only to the performance of classroom duties. Educational assistant tasks may include but are not limited to:

(a) Instructional support — Tasks performed by assistants to supplement students' basic instruction by offering students opportunities to practice and apply what they have learned, including social skills, life skills, and transition skills;

(b) Clerical support — Tasks such as preparing materials, duplicating and operating audiovisual equipment, which are primarily concerned with the physical arrangement of the learning environment; and

(c) Student control — Duties such as supervision of students in school buildings, buses, and grounds including but not limited to lunch rooms, and playground areas, assisting with fire drills, monitoring students in hallways, etc.

(d) Personal care;

(e) Translation or Parent/Family Involvement activities; and

(f) Media center or computer laboratory support.

(2) Any educational assistant assigned to instruction-related activities shall work under the supervision of an appropriately licensed teacher (or administrator, Early Childhood Specialist or Supervisor; or related service provider). Supervision means:

(a) The assigned teacher (or administrator, Early Childhood Specialist or Supervisor; or related service provider) plans the instructional activities that the educational assistant carries out;

(b) The assigned teacher (or administrator, Early Childhood Specialist or Supervisor; or related service provider) evaluates the achievement of the students with whom the educational assistant is working; and

(c) The assigned teacher (or administrator, Early Childhood Specialist or Supervisor; or related service provider) provides a supervision plan that includes regular monitoring of the educational assistant's effectiveness and access to assistance and consultation.

(3) In addition to the supervision requirements under section (2) of this rule, Title I educational assistants must work in close and frequent proximity to the appropriately licensed teacher identified as "highly qualified" as defined by the federal Elementary and Secondary Education Act.

(4) A plan of supervision for the educational assistant shall provide for:

(a) Access to assistance and consultation; and

(b) Regular monitoring of the educational assistant's performance to determine effectiveness of the assigned tasks and the effect on students and their families

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: 1EB 131, f. 5-19-72, ef. 6-1-72; 1EB 15-1980, f. & ef. 6-9-80; EB 7-1990, f. & cert. ef. 1-26-90; ODE 10-2010, f. & cert. ef. 6-30-10

581-037-0025**Training of Educational Assistants**

Districts employing educational assistants in any capacity shall provide or arrange for suitable training to prepare them to perform such functions as they may be assigned.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: 1EB 131, f. 5-19-72, ef. 6-1-72; EB 7-1990, f. & cert. ef. 1-26-90; ODE 10-2010, f. & cert. ef. 6-30-10

581-044-0210**Definitions**

The following definitions apply to OAR 581-044-0210 to 581-044-0260.

(1) "Diverse number of students" refers to a range of school sizes based on student enrollment.

(2) "High demand", as defined by the Oregon Employment Department, means having more than the median number of total (growth plus replacement) openings for statewide or a particular region.

(3) "High wage", as defined by the Oregon Employment Department, is a wage that is more than the all-industry, all-ownership median wage for statewide or a particular region.

(4) "Metropolitan County" is a county classified as Metropolitan by the U.S. Office of Management and Budget (OMB).

(5) "Reasonable geographic distribution" means that at least one-third of the funded proposals shall serve schools within a Metropolitan County, and at least one-third shall serve schools outside of a Metropolitan County.

(6) "The Act" refers to section 7, chapter 683, Oregon Laws 2011 (Enrolled House Bill 3362).

(7) "Educational enterprise" means middle school through post-secondary education including apprenticeship training.

Stat. Auth.: ORS 344.075

Stats. Implemented: ORS 344.075

Hist.: ODE 14-2011(Temp), f. & cert. ef. 10-31-11 thru 4-28-12; ODE 11-2012, f. 3-30-12, cert. ef. 4-2-12; ODE 21-2013, f. & cert. ef. 9-27-13

581-044-0220**Policy**

A Career and Technical Education Revitalization Grant Program has been established to encourage support for programs of study that are part of a continuum across the educational enterprise. Grants must be used to enhance the collaboration between education providers and employers by:

(1) Developing or enhancing career and technical education programs of study.

(2) Expanding the professional growth of and career opportunities for students through career and technical education programs.

(3) Assessing the ability of each career and technical education program to meet workforce needs and give students the skills required for jobs in Oregon that provide high wages and are in high demand.

(4) Supporting the achievement of the Oregon high school diploma requirements.

Stat. Auth.: ORS 344.075

Stats. Implemented: ORS 344.075

Hist.: ODE 14-2011(Temp), f. & cert. ef. 10-31-11 thru 4-28-12; ODE 11-2012, f. 3-30-12, cert. ef. 4-2-12; ODE 21-2013, f. & cert. ef. 9-27-13

581-044-0230**Eligibility**

(1) The following shall be the eligible applicant(s) for the Career and Technical Education Revitalization Grant Program:

(a) School districts;

(b) Education service districts;

(c) Public schools; and

(d) Public charter schools.

(2) A single grant proposal may include more than one eligible applicant and other partners, but the fiscal agent must be one of the eligible applicants identified in subsection (1) of this rule.

Stat. Auth.: 2011 OL Ch. 683 Sec. 7

Stats. Implemented: 2011 OL Ch. 683 Sec. 7

Hist.: ODE 14-2011(Temp), f. & cert. ef. 10-31-11 thru 4-28-12; ODE 11-2012, f. 3-30-12, cert. ef. 4-2-12

581-044-0240

Criteria for Grant Awards

(1) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted each biennium for which Career and Technical Education Revitalization Grant funds are available. The Department shall notify eligible applicants of the proposal process and due dates, and make available necessary guidelines and application forms.

(2) All proposals must comply with requirements of the Act. Grants shall be awarded based on the following generally applicable criteria:

(a) The program shall focus on development and/or enhancement of a program of study in career and technical education;

(b) The program supports Oregon high school diploma requirements;

(c) There is a clear connection between the proposal and the workforce for the program of study based on high wages and high demand;

(d) The program shall serve to increase enrollment in programs of study which provide skills for employment in high-demand careers leading to high wages;

(e) The program demonstrates potential to teach a higher-level of academic and technical skills to all students, thereby increasing the knowledge and improving the skills of Oregon's workforce, and meeting established or developing industry standards;

(f) The business industry and/or labor communities are actively involved in program development and implementation in a manner that strengthens the development and continued viability of the program of study;

(g) There is evidence that the program of study implemented or improved shall be sustained beyond the life of the grant;

(h) There are provisions for follow up of students/staff, evaluation of program results, and reporting of program results.

(3) Priority shall be given to proposals that meet the minimum criteria and:

(a) Support new or expanded CTE programs;

(b) Demonstrate long-term viability;

(c) Demonstrate commitments from business, industry, labor or education providers to enhance collaboration;

(d) Demonstrate a diverse number of students served;

(e) Contribute to a reasonable geographic distribution of grant moneys;

(f) Create regional collaborations between partners which may include multiple public schools or other partners in a region; and

(g) Demonstrate that the collaboration between education providers and employers enhanced by the grant will be sustainable beyond the life of the grant.

Stat. Auth.: ORS 344.075

Stats. Implemented: ORS 344.075

Hist.: ODE 14-2011(Temp), f. & cert. ef. 10-31-11 thru 4-28-12; ODE 11-2012, f. 3-30-12, cert. ef. 4-2-12; ODE 21-2013, f. & cert. ef. 9-27-13

581-044-0250

Grant Advisory Committee

(1) The Oregon Department of Education and the Bureau of Labor and Industries shall jointly convene a Grant Advisory Committee to set goals for the grant program, develop grant criteria, review all grant applications and recommend determinations on those applications.

(2) The Grant Advisory Committee must equally have representatives from business, industry, labor, and education providers. The Department and Bureau shall seek recommendations for membership on the committee from:

(a) Organizations who represent business, industry and labor; and

(b) Education providers including but not limited to the Department of Community Colleges and Workforce Development, community colleges, school districts and other public and private education providers.

(3) A member of the Grant Advisory Committee may not review a grant for which they have a declared conflict of interest.

(4) The Grant Advisory Committee shall receive training on the purpose of the Career and Technical Education Revitalization Grant program and RFP scoring procedures prior to scoring any proposals.

(5) In consultation with the Bureau of Labor and Industries, the Oregon Department of Education may appoint additional grant reviewers for the sole purpose of expediting the grant review process.

Stat. Auth.: ORS 344.075

Stats. Implemented: ORS 344.075

Hist.: ODE 14-2011(Temp), f. & cert. ef. 10-31-11 thru 4-28-12; ODE 11-2012, f. 3-30-12, cert. ef. 4-2-12; ODE 21-2013, f. & cert. ef. 9-27-13; ODE 22-2015, f. & cert. ef. 12-18-15

581-044-0260

Method of Awarding Competitive Grants

(1) Funding awards for Career and Technical Education Revitalization projects shall be approved by the Oregon Department of Education designated project manager, fiscal manager, and the Deputy Superintendent of Public Instruction.

(2) The Oregon Department of Education shall design a Request for Proposal (RFP) and scoring sheets that reflect requirements of state law and criteria stated in OAR 581-044-0240.

(3) Mailing requirements and deadlines shall be included in the RFP.

(4) Each proposal shall be scored by a minimum of two reviewers who are members of the Grant Advisory Committee or have been appointed as a grant reviewer as described in OAR 581-044-0250 section (5). Where possible each proposal shall be scored by at least one reviewer representing business, industry, or labor and one reviewer representing education providers.

(5) The Grant Advisory Committee shall make recommendations for funding based on the review of proposals and the intent of the Act.

(6) In the event that there are insufficient proposals that meet the requirements of the Act and ensure a reasonable geographic distribution, the Grant Advisory Committee may recommend an alternative approach to determining reasonable geographic distribution.

(7) The Oregon Department of Education shall notify both successful and unsuccessful applicants. Both successful and unsuccessful applicants shall be allowed access to a summary of comments and suggestions related to their proposals.

(8) Applicants shall have one week from the date of the notification letter to appeal the funding decision related to their application to the Deputy Superintendent of Public Instruction. Decisions made by the Deputy Superintendent are final.

(9) Grant recipients may request minor changes in funded proposals from the Department of Education. Requests for changes and approved changes shall be kept as part of the grant file.

Stat. Auth.: ORS 344.075

Stats. Implemented: ORS 344.075

Hist.: ODE 14-2011(Temp), f. & cert. ef. 10-31-11 thru 4-28-12; ODE 11-2012, f. 3-30-12, cert. ef. 4-2-12; ODE 21-2013, f. & cert. ef. 9-27-13

DIVISION 45

PRIVATE VOCATIONAL SCHOOLS

581-045-0586

Fingerprinting of Subject Individuals Employed by Private Schools in Positions Not Requiring Licensure as Teachers, Administrators, Personnel Specialists, School Nurses

(1) Definitions of terms shall be as follows:

(a) "Applicant" means a subject individual for whom fingerprint cards and other required information have been submitted to the Oregon Department of Education for a criminal history check and review;

(b) "Convictions of crimes prohibiting employment, contract or assignment by a contractor" means, notwithstanding any other statutes or Oregon administrative rule, conviction of a crime listed in ORS 342.143, or making a false statement as to the conviction of a crime;

(c) “Direct, unsupervised contact with students” means contact with students that provides the person opportunity and probability for personal communication or touch when not under direct supervision;

(d) “Fee” means the total charges assessed. Fees shall be paid to the Oregon Department of Education with submission of fingerprint cards and associated form. The fee amount and distribution shall be as follows:

- (A) Oregon State Police (OSP) — \$28;
- (B) Federal Bureau of Investigation (FBI) — \$16.50;
- (C) Oregon Department of Education — \$14.50;
- (D) TOTAL — \$59.

(e) “Information to be required” means all information requested by the Oregon Department of Education for processing the fingerprint application, including the following:

(A) One properly completed FBI fingerprint cards #USGPO 1990-262-201-2000; and

(B) A properly completed Department of Education form #581-2283-M.

(f) “Knowingly made a false statement” means that a subject individual has failed to disclose on the Department of Education form #581-2283-M as part of the criminal background check process any of the following:

- (A) A felony;
- (B) Any misdemeanor conviction less than twenty years from date of conviction;

(C) Any misdemeanor that is listed in ORS 342.143 or its substantial equivalent in another jurisdiction.

(g) “Newly hired” means a person employed for three months or less after application or request for a position without regard to that person’s current or previous employer.

(h) “Private School” means a school that:

(A) Offers education in prekindergarten, kindergarten or grades 1 through 12, or any combination of those grade levels; and

(B) Provides instructional programs that are not limited solely to dancing, drama, music, religious or athletic instruction.

(i) “Subject individual” means:

(A) A person newly hired by a Private School in a position not requiring licensure under ORS 342.223; and

(B) Any person hired as or by a contractor into a position having direct, unsupervised contact with students and not requiring licensure under ORS 342.223.

(2) A private school may request that Department of Education conduct a criminal records check of a subject individual. Upon receipt of the information, the Department shall request criminal information from the Department of State Police in the manner prescribed by law and may charge the private school a fee not to exceed the actual cost of acquiring and furnishing the information.

(3) The Oregon Department of Education shall review the criminal records of subject individual upon the private school’s submission of the required FBI and state forms and the State Superintendent of Public Instruction or designee shall issue a statement of criminal history status. The Superintendent of Public Instruction or designee shall notify the private school if the subject individual has knowingly made a false statement as to conviction of a crime. A private school may choose to employ or contract with a person who has knowingly made a false statement as to conviction of a crime.

(4) The Oregon Department of Education shall not provide copies of criminal records to anyone except as provided by law. The subject individual may inspect his or her personal criminal records under the supervision of properly certified LEDS (Law Enforcement Data Systems) personnel at the Department of Education.

(5) The Superintendent of Public Instruction or designee shall notify the private school if the subject individual has been convicted of a crime listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number. A private school may choose to employ or contract with

a person who has been convicted of a crime listed in ORS 342.143 or the substantial equivalent.

(6) Only cards and forms approved by the Department of Education will be accepted. The Department of Education will return any incomplete or incorrectly completed fingerprint cards and associated forms without taking any other action. The Department of Education will return fingerprint cards and associated forms without appropriate fees without taking any other action.

(7) The Department of Education shall maintain a record of all properly submitted fingerprint cards. The record shall include at least the following:

- (a) Card sequence number;
- (b) Name of Private School submitting the cards;
- (c) Date cards and Department form received;
- (d) Date incomplete card returned to the school (only if applicable);
- (e) Date completed card sent to Oregon State Police;
- (f) Date private school was notified of state police record or lack of record;
- (g) Date FBI card returned to Department;
- (h) Date private school was notified of FBI record or lack of record.

Stat. Auth.: ORS 326.603

Stats. Implemented: ORS 326.603

Hist.: EB 16-1997, f. & cert. ef. 12-29-97; ODE 29-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 13-2003(Temp), f. & cert. ef. 7-1-03 thru 12-15-03; Administrative correction 8-2-04; ODE 9-2006, f. & cert. ef. 2-21-06; Renumbered from 581-022-1732, ODE 25-2008, f. & cert. ef. 9-26-08; ODE 27-2009, f. & cert. ef. 12-10-09; ODE 7-2012, f. 2-1-12, cert. ef. 2-3-12; ODE 28-2012(Temp), f. 9-13-12, cert. ef. 9-17-12 thru 3-15-13; ODE 4-2013, f. & cert. ef. 1-17-13; ODE 11-2014, f. & cert. ef. 2-19-14; ODE 7-2015, f. & cert. ef. 4-15-15

DIVISION 49

STANDARDS FOR THE ACCREDITATION OF EMERGENCY MEDICAL TECHNOLOGY EDUCATION AND TRAINING PROGRAMS

581-049-0000

Purpose

(1) The purposes of the rules in this division are to set the minimum standards with which Emergency Medical Technology (EMT) programs must comply prior to approval of courses by Emergency Medical Services Section of the Oregon Health Division (OHD-EMS) and to set forth the process of accreditation for determining if the offering institution is meeting these standards.

(2) EMT education and training programs are offered by teaching institutions pursuant to OAR 333-265-0000 through 333-265-0020 effective July 1, 1994, including community colleges, licensed private vocational schools, and institutions of higher education. If OHD-EMS determines that training is not available in a rural area through a teaching institution, hospitals licensed by the Health Division may be authorized to teach basic levels of EMT courses.

(3) The standards in OAR 581-049-0000–581-049-0040 effective (as of date rules are adopted) apply to EMT basic, intermediate, and paramedic levels of education and training offered by or through Oregon community colleges and licensed private vocational schools.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 823.130 - 823.150

Hist.: EB 22-1993, f. & cert. ef. 6-2-93; EB 19-1995, f. & cert. ef. 7-11-95

581-049-0010

Definitions

Definitions for the purposes of division 049:

(1) “Administrator” means a person responsible for all aspects of planning and managing an Emergency Medical Technology (EMT) Program.

(2) “Class” means scheduled meeting of persons for instructional purposes.

(3) “Clinical Experiences” means those experiences acquired by a student during an approved EMT program under the direct

supervision of appropriate medical direction and clinical supervision. Experience must include the application of specific knowledge, assessment, and treatment skills required to meet written clinical experience competencies.

(4) "Clinical Preceptor" means a person who has been trained as a preceptor and appointed by an accredited teaching institution and approved by the EMS provider, having the responsibility of supervising and evaluating the performance of an EMT student during the clinical and field internship phases of an EMT course. A preceptor must be a physician, physician assistant, registered nurse, or certified EMT in good standing at or above level for which the student is in training.

(5) "Course" means aggregation of classes to achieve a completed set of competencies as identified by OHD-EMS and established in OAR 333-265-0000 et seq. effective July 1, 1994.

(6) "Course Director" means a person who is the principal instructor of an EMT course and is responsible for scheduling lectures and coordinating and arranging clinical rotations and field internships.

(7) "Emergency Medical Technician (EMT)" means a person who has received formal training in prehospital emergency care and is state-certified to attend a person who is ill, injured, or has a disability. (ORS 823.020) effective July 1, 1993.

(8) "Field Internship" means those hours and calls acquired by a student during an approved clinical EMT paramedic course under the direct visual supervision of a preceptor. A call shall be accepted when the clinical preceptor providing direct visual supervision has documented and verified satisfactory student performance. Calls must include the application of specific assessment and treatment skills required of a certified EMT.

(9) "Guest Lecturer" means a person who presents one or more lectures on specific topics in which the lecturer has personal expertise.

(10) "In Good Standing" means the status of a person who is currently certified or licensed, who does not have any restrictions placed on his/her certificate, and who is not on probation with the certifying or licensing agency for any reason.

(11) "Medical Director" means a licensed physician who shall provide medical direction to the didactic, clinical and field internship portions of an EMT course or serves as the medical director of an EMT, registered nurse or physician assistant associated with a licensed ambulance service. The medical director must meet the qualifications of a supervising physician as defined in OAR 847-035-0020 effective January 1, 1995.

(12) "OCCS" means the Office of Community College Services.

(13) "OHD-EMS" means the Emergency Medical Services Section of the Oregon Health Division.

(14) "OPTE" means the Office of Professional Technical Education.

(15) "Patient" means a person who is ill, injured, or has a disability who may be transported in an ambulance.

(16) "Physician" means a person licensed under ORS 677.010, actively registered and in good standing with the Board of Medical Examiners as a Medical Doctor (MD) or Doctor of Osteopathic Medicine (DO).

(17) "Private Vocational Schools Section" means the section within the Oregon Department of Education which has the responsibility for the licensure of private vocational schools (ORS 345.010 to 345.470 effective July 1, 1994).

(18) "Registered Nurse (RN)" means a person licensed under ORS 678.040 effective July 1, 1994, actively registered and in good standing with the Oregon Board of Nursing.

(19) "Scope of Practice" means the maximum level of emergency care that an EMT may provide as set forth in OAR 847-035-0030 effective July 1, 1994.

(20) "Teaching Institution" means a two-year community college or a licensed vocational school that is currently licensed and in good standing with the Private Vocational Schools Section of the

Office of Professional Technical Education of the Oregon Department of Education.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 823.130 - 823.150

Hist.: EB 22-1993, f. & cert. ef. 6-2-93; EB 19-1995, f. & cert. ef. 7-11-95;

ODE 26-2008, f. 10-23-08, cert. ef. 10-24-08

581-049-0020

Standards

(1) The standards and accreditation process in this rule pertain specifically to EMT programs offered by community colleges (including satellite courses and programs), and licensed private vocational schools.

(2) Each EMT course shall follow, without substantial variation, the OHD-EMS prescribed curriculum for the level of EMT course being presented. The curriculum consists of three components: Didactic instruction, including laboratory skills; supervised clinical experience in health care facilities; and supervised field internship. Didactic instruction and supervised clinical experience are required for Basic and Intermediate level EMT courses. A supervised field internship is required as well as didactic instruction and supervised clinical experience for EMT paramedic level courses. Each curriculum component shall comply with all OHD-EMS requirements for the particular level of EMT certification involved. All psycho-motor skills shall be taught in accordance with the Health Division/OHD-EMS EMT Skills Manual:

(a) Didactic Instruction: Each EMT course shall have a written planned course statement that contains course goals and objectives stated in terms of the competencies students will be expected to achieve upon successful completion of the course;

(b) Clinical Experiences: Clinical affiliations shall be established and confirmed in written affiliation agreements between the teaching institution and hospitals and other institutions and agencies that provide clinical experiences for students under appropriate medical direction and clinical supervision:

(A) Goals and identified competencies to be attained shall be written for each clinical rotation site. Students shall be provided a copy of the clinical rotation site goals and competencies prior to each clinical experience;

(B) Students shall be assigned to clinical settings where experiences are educationally efficient and effective in achieving the program's goals and objectives;

(C) Students in clinical settings shall be supervised by appropriate medical personnel or by an instructor from the program as outlined in the written affiliation agreement. The ratio of students to instructors in the clinical facilities shall be adequate to ensure effective learning.

(c) Field Internship: A field internship shall be established for each student for whom such is required by OHD-EMS. The internship shall meet requirements established by OHD-EMS and defined in OAR 333-265-0010(f)(C)(iii) effective July 1, 1994.

(A) The school shall enter into written agreements for clinical experiences and field internships that provide sufficient clinical experiences and field internships to permit every student enrolled to complete these requirements within the timeframe of the approved course;

(B) All field internships will occur within an emergency medical system which demonstrates medical accountability. A clinical preceptor shall be assigned to supervise each student intern. The preceptor's qualifications shall meet guidelines set by OHD-EMS;

(C) Written goals and competencies to be attained shall be established for all field internships. Copies shall be provided the student and the student's assigned preceptor. These competencies shall meet requirements of OHD-EMS as stated in OAR 333-265-0010 effective July 1, 1994.

(3) Program Administrator: Each program shall have a qualified program administrator primarily responsible for managing all aspects of the program, whose responsibilities include, but are not limited to, the organization, administration, and evaluation of the program. Acquisition of adequate resources and staff to assure

a quality program is a primary responsibility of the program administrator.

(4) The intent of section (3) of this rule is to assure that appropriate officials of the sponsoring teaching institution are directly involved in program planning and management and to provide OHD-EMS and OPTE-OCCS with a single focus for resolution of problems arising as a result of EMT program delivery.

(5) The program administrator shall be a senior manager or administrative officer with general managerial responsibility who has training and experience in education administration and evaluation (i.e., dean, associate dean, administrator, or associate administrator).

(6) Course Director: Each course shall have a course director who shall be the principle teacher for the course. The course director shall be responsible for all aspects of course planning and delivery. The course director shall meet the requirements as outlined in OAR 333-265-0020(f)(C)(iii) effective July 1, 1994.

(7) Guest Lecturers: These are individuals who do not regularly assist in the delivery of EMT education and training who present one or more lectures on specific topics in which they possess personal expertise. Guest lecturers do not need to have any particular level of certification. It is the responsibility of the course director to establish that each guest lecturer possesses the necessary expertise and teaches in compliance with all course standards.

(8) Medical Director: Each EMT education and training program shall have a medical director, who shall advise the program administrator and course director on medical aspects of the EMT program. The medical director shall currently be approved by OHD-EMS as an EMT supervising physician.

(9) Continuing Education for Faculty and Staff. It is recommended that financial support be provided for faculty education required to keep mandatory certifications current.

(10) Financial Resources: The operational budget for the program shall be sufficient to maintain the continuous operation of the EMT program.

(11) Facilities: Classroom, laboratories, administrative, and faculty offices shall be provided with sufficient space to accommodate the number of students enrolled in the program and the program faculty:

(a) Classrooms shall be clean and have adequate lighting, ventilation, and storage for instructional materials and equipment. Furniture should be in good repair and comfortable with appropriate writing surfaces;

(b) Laboratory space shall be available for students to practice skills. This may be the same room as the classroom, providing there is adequate space for students to perform the required skills (e.g., CPR, patient packaging, splinting, etc.). Floors, where skills are practiced, shall be covered with carpet or other appropriate protective materials. Running water shall be available in the class/lab facility. The room should meet all Oregon Occupational Safety and Health Administrative standards for safety;

(c) Each classroom site shall have sufficient toilet facilities to reasonably accommodate the number of students enrolled in the course;

(d) Administrative staff and faculty shall be provided adequate office space to manage the program, keep adequate records and instructional materials, and prepare lesson plans. Space should also be provided for confidential faculty/student conferences.

(12) Instructional Aids, Supplies, and Materials: Sufficient up-to-date instructional aids, supplies, and materials shall be provided to facilitate learning for the number of students in the program and the level of EMT course being offered:

(a) Teaching aids and instructional materials shall be readily available to the instructor;

(b) Adequate AV materials and equipment shall be available for instructor and student use;

(c) Independent study areas with TV monitors/audio outlets shall be available for student use as needed for make-up work and independent study;

(d) The budget shall provide for supplies and annual updating of instructional materials.

(13) Equipment: Each EMT course shall be supported by the prescribed quantity of equipment necessary to support the level of EMT education and training being provided. Required equipment shall be specified by OHD-EMS:

(a) Equipment shall be technologically up-to-date and readily accessible to faculty and students;

(b) All equipment shall be kept in good repair;

(c) An annual and long-term budget for capital equipment shall be in place to maintain and provide for replacement of equipment.

(14) Support Services: Support services necessary to ensure student success shall be made available to students in the EMT program. These services include, but are not limited to:

(a) A library with appropriate up-to-date periodicals and books open during hours which will provide maximum accessibility to students;

(b) Counseling staff available for academic and career planning;

(c) Tutoring assistance available on an "as needed" basis;

(d) Funding and staff time available for student recruitment, selection, and placement procedures. It is required that students pass reading and math placement tests at appropriate levels for each course prior to acceptance into the program.

(15) Admission Policies and Procedures: Admission of students shall be made in accordance with clearly defined and published practices of the institution. Specific academic and technical requirements for admission shall also be clearly defined and published. The standards and prerequisites shall be made known to all potential program applicants.

(16) Program Information: Accurate information regarding program requirements, tuition and fees, institutional and programmatic policies, procedures and supportive services shall be available upon request to all prospective students and be provided to all enrolled students. It is recommended that this information be compiled in an EMT student handbook.

(17) Program Descriptions: A description of each EMT course, a statement outlining course competencies, course outlines, class and laboratory schedules, clinical and field internship experience schedules, and teaching plans shall be on file and available to candidates and enrolled students;

(18) Equal Opportunity: The program shall comply with ORS 659.850 and shall not discriminate with respect to race, color, religion, sex, sexual orientation, marital status, age, disability, or national origin.

(19) Evaluation: Each approved course shall provide the number of written and practical examinations prescribed by OHD-EMS. The content of examinations for each level of EMT course shall be prescribed by OHD-EMS:

(a) Each approved course shall culminate in written and practical certification examinations prescribed by the OHD-EMS. For academic purposes, a teaching institution may administer its own final written and practical examination prior to the conduct of OHD-EMS certification examinations;

(b) The written certification examination shall be administered by a proctor provided by the teaching institution. The proctor shall be subject to the approval of the OHD-EMS, shall not be certified as an EMT at any level, and shall not be otherwise involved in the delivery of EMT training;

(c) Evaluators for the final practical examination shall be individuals meeting the requirements prescribed by OHD-EMS to serve as final practical examination evaluators. An OHD-EMS representative shall be present at final practical examinations and shall provide evaluation instruments to be used in the conduct of all final practical evaluations.

(20) Job Search and Placement: Students who successfully complete the program shall be provided access to job search and placement services.

(21) Advisory Committee: Each program shall have an advisory committee to provide guidance and information regarding local community practices and needs:

(a) The advisory committee shall consist of representatives from local employers of EMT personnel, current or former students, and other community members as appropriate. The medical director shall be a member of the advisory committee and serve as a primary source of information. A roster of the advisory committee members, their place of employment and phone numbers shall be kept on file and easily accessible;

(b) The advisory committee shall meet a minimum of three times each year and minutes of the meeting shall be recorded and kept on file.

(22) A safe working and learning environment shall be provided to all students and staff so that students learn to be safety conscious in the classroom and carry that consciousness into practice in clinical and internship experiences and ultimately into the profession:

(a) Safety Policy: The teaching institution shall have a safety policy that meets all state and federal requirements. The teaching institution shall identify an administrator who is responsible for monitoring the safety policy and assures that regular safety inspections are made and documented;

(b) Instructional Activities: All instructional activities (i.e., didactic, clinical, and internship) shall be carried on in accordance with the Oregon Safe Employment Act, OR-OSHA standards, and ORS 656.046 effective January 1, 1995, which requires coverage of persons in college work experience and vocational educational programs;

(c) Curriculum: Occupational safety shall be an integral part of the curriculum;

(d) Insurance: Each student enrolled in the program shall be covered by professional liability insurance in the amount of not less than \$1,000,000 per occurrence. Copies of insurance policies documenting the coverage shall be on file at the institution.

(23) The institution shall maintain complete, accurate student records in a safe, secure place within the educational institution:

(a) The following records shall be maintained until the student has been certified by OHD-EMS at the level corresponding to the education program or for a minimum of five years following the student's enrollment in the program:

(A) Student admission into the program;

(B) Class attendance;

(C) Evidence of competencies attained throughout the program;

(D) Copies of examinations and assessments throughout the program;

(E) Evidence of satisfactory completion of all didactic, clinical, and field internship requirements.

(b) A record of all grades and credits earned by each student shall be kept permanently by the institution;

(c) All records shall be confidentially maintained in accordance with Family Education Rights and Privacy Act.

(24) To assure a high quality program it is essential that all aspects of the program be evaluated on both an ongoing and periodic basis:

(a) The teaching institution shall establish processes to evaluate on an ongoing basis the effectiveness of the instructional program. These will include gathering evaluative data from students, administrators, clinical supervisors, intern preceptors and advisory committee members. Follow-up surveys of graduates and the employers of graduates shall be conducted to evaluate the effectiveness of the curriculum, teaching, and the services offered by the institution. Data gathered through these processes should be analyzed and utilized for program improvement;

(b) Every EMT program shall be evaluated through a process of accreditation at least once every five years. This process shall occur as outlined in OAR 581-049-0030 effective (date these rules are adopted).

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 823.130 - 823.150

Hist.: EB 22-1993, f. & cert. ef. 6-2-93; EB 28-1993, f. & cert. ef. 9-29-93; EB 19-1995, f. & cert. ef. 7-11-95; ODE 13-2008, f. & cert. ef. 5-23-08

581-049-0030**Process of Accreditation**

The purpose of the accreditation process is to assure quality Emergency Medical Technology Educational programs and to provide recognition for those programs which meet or exceed the minimum standards as outlined in these rules. The accreditation process shall consist of two components, an internal self-study conducted by the teaching institution, and an external evaluation conducted by an accreditation team:

(1) Self-Study: The teaching institution shall complete an internal review of the EMT program that will result in a self-study which documents that the program meets the minimum requirements as outlined in these rules. The self-study will be sent to the OPTE at least 30 days prior to the date set for the external team visit. Guidelines for preparing the self-study can be obtained from the OPTE-OCES.

(2) External Evaluation Review Team: The review team shall consist of at least three people, an OPTE-OCES assigned coordinator, and EMT 4 who has had active field patient care experience and is knowledgeable regarding educational needs and issues related to EMT training, and an education curriculum person designated by the OPTE-OCES. The team will:

(a) Review the self-study completed by the institution prior to the site visit;

(b) Participate in a site visit where the team will confirm that the information in the self-study is accurate and meets the minimum requirements set forth in these rules; and

(c) Report to the associate superintendent, OPTE-OCES, the team findings, specifically identifying strengths, weaknesses, and any deficiencies of the program. The associate superintendent shall send a copy of the report, along with a letter of accreditation status, to the chief administrative officer of the institution in which the program is located. A copy of the letter and report also will be sent to OHD-EMS.

(3) Site Team Coordinator: The role of the coordinator will be to:

(a) Work with the institution's program administrator to schedule the site visit;

(b) Select and orient the review team members;

(c) Serve as a team leader on the site visit;

(d) Conduct an exit interview summarizing the team's findings;

(e) Coordinate the writing of the team report and provide it to the associate superintendent who will send a copy to the chief administrative officer of the institution within 30 days of the site visit; and

(f) Conduct follow-up activities as necessary.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 823.130 - 823.150

Hist.: EB 22-1993, f. & cert. ef. 6-2-93

581-049-0040**Deficiencies**

(1) If deficiencies are reported by the External Evaluation Review Team, the program has 90 days from the date the report was received by the chief administrative officer to correct the deficiencies. The institution shall not start any new courses until the deficiencies are corrected or a detailed plan to correct each deficiency has been submitted reviewed and accepted by OPTE/OCES.

(2) If the chief administrative officer disputes the reported deficiencies, he or she may request, within ten days from the date the report was received, a hearing which shall be held in accordance with ORS Chapter 183 effective January 1, 1995.

(3) If deficiencies are not corrected within 90 days or an approved plan to correct the deficiency(s) has not been submitted to OPTE/OCES, the program accreditation shall be revoked after a hearing held in accordance with ORS Chapter 183 effective January 1, 1995.

(4) The associate superintendent may issue an interim order prohibiting the teaching institution from starting any new classes or accepting any new students until either the deficiencies are

corrected or a hearings officer determines that the alleged deficiencies did not occur.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 823.130 - 823.150

Hist.: EB 22-1993, f. & cert. ef. 6-2-93; EB 19-1995, f. & cert. ef. 7-11-95

DIVISION 51

SCHOOL FOOD AND NUTRITION SERVICES

581-051-0100

School Nutrition Programs

(1) Authority and direction for the operation of school nutrition programs in Oregon shall be derived from the United States Department of Agriculture, the Oregon Revised Statutes, Oregon Administrative Rules and rules of district school boards.

(2) Claims for reimbursement by schools participating in the USDA School Nutrition Programs:

(a) Shall be submitted in a form designated by the Oregon Department of Education; and

(b) Must be received in the Oregon Department of Education by the fifteenth day of the month following the month for which claim is made.

(3) Food sold in competition with the School Breakfast Program or National School Lunch program shall not be allowed during the breakfast and/or lunch periods unless the funds accrue to the nonprofit food service program, the school or student organizations as may be defined by the district school board.

(a) The sale of items from the USDA Categories of Foods of Minimal Nutritional Value 7 CFR 210. Appendix B during the breakfast and/or lunch periods in the food service area is prohibited. However, if approved by the school district board, foods of minimal nutritional value may be sold outside the food service area during the breakfast and/or lunch periods.

(A) "Foodservice Area" means any area on school premises where NSLP and SBP meals are both served and eaten. Areas where students eat NSLP and SBP meals that are completely separate from the serving area are also part of the foodservice area.

(B) Financial penalties to the school food service program resulting from FMNV being served during meal time in the food service area by school policy or practice will be repaid to the program from the general fund.

(b) A copy of the Board action of approval must be filed with the School Nutrition Programs Section, Oregon Department of Education.

Stat. Auth.: ORS 326 & 327, 7 CFR 210

Stats. Implemented: ORS 327.137

Hist.: 1EB 2-1986, f. 1-7-86, ef. 1-8-86; ODE 17-2004, f. & cert. ef. 8-10-04

581-051-0305

Food Safety Inspection Definitions

(1) "Central Kitchen" means a foodservice site where food is prepared at a facility and then some or all of the food is delivered to a meal serving site(s) at a place(s) other than the preparation site.

(2) "CNP" means Child Nutrition Programs.

(3) "Competitive Food Sales" means any foods sold in competition with the NSLP and SBP in foodservice areas during the breakfast and lunch meal periods.

(4) "Competitive Food Sales vendor" means any person or organization selling competitive foods in the Sponsor's foodservice areas during the lunch and breakfast meal periods.

(5) "Critical Violation" means a Food Safety Inspection violation that is more likely than other Food Safety Inspection violations to cause food contamination, illness or an environmental health hazard. Priority and Priority Foundation item violations are critical violations.

(6) "Finishing Kitchen" means a foodservice site that receives prepared foods for reheating, assembling, portioning, and serving.

(7) "Food Safety Inspection Annual Report" means the report of completed Sponsor site(s) Food Safety Inspections. The Annual

Report is prepared by the Sponsor and submitted to ODE CNP by June 30 each school year.

(8) "Food Safety Inspection document of findings" means any form used by the state or local public health authority to document a Food Safety Inspection.

(9) "Food Safety Inspection: National School Lunch Program and School Breakfast Program Requirements" means schools shall at least twice each school year obtain a Food Safety Inspection conducted by a state or local governmental agency responsible for food safety inspections. (7 CFR 210.13 and 7 CFR 220.7)

(10) "Foodservice Area" means any area on school premises where NSLP and SBP meals are both served and eaten as well as any other areas where programs meals are served and eaten. Areas where students eat NSLP and SBP meals that are completely separate from the serving area are also part of the foodservice area.

(11) "Notice of Non-Compliance" means documentation that a Critical violation(s) has not been corrected nor has the Sponsor or Competitive Food Sales vendor implemented an alternative plan, approved by the state or local public health authority.

(12) "NSLP" means the National School Lunch Program.

(13) "ODE" means the Oregon Department of Education.

(14) "On-site Preparation Kitchen" means a foodservice site where food is prepared and served at one location.

(15) "Person in Charge" means the person responsible for food safety and sanitation, and who is present at the food establishment during the NSLP, SBP, and Competitive Food Sales hours of operation. The Person in Charge is designated by Public and Private schools and RCCI Sponsors and Competitive Food Sales vendors for each meal site and each Competitive Food Sales site.

(16) "Priority Item" means a provision in the Food Code whose application contributes directly to the elimination, prevention or reduction to an acceptable level, hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazard. Priority items include items with a quantifiable measure to show control of hazards such as cooking, reheating, cooling and hand washing

(17) "Priority Foundation Item" means a provision in the Food Code whose application supports, facilitates or enables one or more priority items. Priority foundation items include an item that requires the purposeful incorporation of specific actions, equipment or procedures by industry management to attain control of risk factor that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, Hazard Analysis Critical Control Point plans, documentation or record keeping and labeling

(18) "Private School" means any entity, except as provided in ORS 339.030(1)(d) and (e), that:

(a) Is not supported with state funds;

(b) Is operated by a non-governmental, religious or non-religious group or organization;

(c) Provides educational services to students at any level, pre-K through grade 12;

(d) Has a teacher or teachers who provide instruction;

(e) Has an administrator or head teacher; and

(f) Occupies one or more buildings.

(19) "Program meals," means the National School Lunch Program meals and School Breakfast Program meals.

(20) "Public School" means any entity that has been recognized as a school by the district school board through a resolution adopted by the board or by the State Board of Education for a public charter school sponsored by the board and:

(a) Is supported with public funds;

(b) Is operated by a local education agency, education service district or state education agency;

(c) Provides educational services to students at any level, pre-K through grade 12;

(d) Has a teacher or teachers to provide instruction;

(e) Has an administrator or head teacher;

(f) Provides Oregon statewide assessment to its students; and

(g) Occupies one or more buildings.

(21) “Residential Child Care Institution (RCCI)” means any Public or Nonprofit Private Residential Child Care Institution, or distinct part of such institution, which operates principally for the care of children. An RCCI is considered a school. Private RCCIs must be licensed to provide Residential Child Care services under the appropriate licensing code by the state or a subordinate level of government.

(22) “Satellite Kitchen” means a foodservice site where food is received fully prepared from another location and is ready to serve.

(23) “SBP” means the School Breakfast Program.

(24) “School Year” means a period of 12 calendar months beginning July 1 of any year and ending June 30 of the following year.

(25) “Sponsor” means Public and Private Schools and RCCIs who participate in the NSLP and SBP.

(26) “State or local public health authority” means the state or local governmental authority responsible for conducting Sponsor and Competitive Food Sales vendor Food Safety Inspections.

(27) “USDA” means the United States Department of Agriculture.

(28) “Vended Meals” means meals prepared by a facility other than the Sponsor and sold for service at a Sponsor’s meal site(s); or meals prepared by the Sponsor and sold to another food service operation.

Stat. Auth.: ORS 326.051

Stats. Implemented: 7 CFR210 & 7 CFR220.7

Hist.: EB 15-1987, f. & ef. 7-30-87; EB 2-1996, f. & cert. ef. 1-29-96; ODE 5-2002(Temp), f. & cert. ef. 2-1-02 thru 6-30-02; ODE 15-2002, f. & cert. ef. 6-10-02; ODE 3-2011, f. 1-31-11, cert. ef. 2-1-11; ODE 20-2013, f. & cert. ef. 8-28-13

581-051-0306

Food Safety Inspection Requirements

(1) Sponsors must have at least two Food Safety Inspections for every kitchen and meal-serving site in their foodservice operation each school year.

(2) Vended Meal Sponsors must have at least two Food Safety Inspections for the receiving and sending food preparation and serving meal sites each school year.

(3) Competitive Food Sales vendors may be subject to a Food Safety Inspection every school year as determined by the state or local public health authority.

(4) The Food Safety Inspection standards are set forth in the School Food Safety Inspection Requirements, which shall be known as the Food Code for Public School Sponsors, Private School Sponsors and Residential Child Care Institution Sponsors of the USDA, NSLP and SBP are adopted by reference. The complete Food Code is available through Oregon Department of Education, Child Nutrition Program.

(5) The Sponsor “Person in Charge” requirements for Responsibility, Knowledge and Duties as stated in the School Food Safety Inspection Requirements will be effective July 1, 2003.

(6) The Competitive Food Sales vendor “Person in Charge” requirements for Responsibility, Knowledge and Duties as stated in the School Food Safety Inspection Requirements will be effective July 1, 2003.

(7) New Sponsors must have a Food Safety Inspection conducted by the state or local public health authority and must meet school food safety inspection requirements before starting the NSLP and SBP.

Stat. Auth.: ORS 326.051

Stats. Implemented: 7 CFR210 & 7 CFR220.7

Hist.: ODE 5-2002(Temp), f. & cert. ef. 2-1-02 thru 6-30-02; ODE 15-2002, f. & cert. ef. 6-10-02; ODE 3-2011, f. 1-31-11, cert. ef. 2-1-11; ODE 20-2013, f. & cert. ef. 8-28-13

581-051-0310

Food Safety Inspection Procedures

(1) Sponsors are required to contact their state or local public health authority for Food Safety Inspections every school year.

(2) Competitive Food Sales vendors are required to contact their state or local public health authority to determine if they need a Food Safety Inspection every school year.

(3) Sponsors are responsible for the cost of the Food Safety Inspection and re-inspection(s), if applicable, for every kitchen and meal-serving site under their jurisdiction.

(4) Competitive Food Sales vendors are responsible for the cost of the Food Safety Inspection, if required by the state or local public health authority, and re-inspection(s), if applicable, for every Competitive Food Sales site under their jurisdiction.

(5) Sponsor Food Safety Inspections must be conducted during meal service operations.

(6) Competitive Food Sales vendor Food Safety Inspections must be conducted during business operations.

(7) The Sponsor Food Safety Inspection document of findings will be provided to the foodservice representative, site administrator, and Superintendent or Director, at the completion of each Food Safety Inspection by the state or local public health authority.

(8) The Competitive Food Sales vendor Food Safety Inspection document of findings will be provided to the vendor representative, Sponsor foodservice representative, Sponsor site administrator, and Sponsor Superintendent or Director, at the completion of each Competitive Food Sales Safety Inspection by the state or local public health authority.

(9) If the Sponsor Food Safety Inspection Critical Violation(s) are not corrected, or an alternative plan approved by the state or local public health authority is not implemented by the Sponsor, a Notice of Non-Compliance will be issued to the foodservice representative, site administrator, Superintendent or Director, and ODE CNP by the state or local public health authority. Effective July 1, 2003, Sponsor meal reimbursements may be withheld if the Sponsor receives the Notice of Non-Compliance. When the Notice of Non-Compliance is corrected, Sponsor reimbursement payments will be released.

(10) If Competitive Food Sales vendor Food Safety Inspection Critical Violation(s) are not corrected or an alternative plan approved by the state or local public health authority is not implemented by the Competitive Food Sales vendor, a Notice of Non-Compliance will be issued to the vendor representative, Sponsor foodservice representative, Sponsor site administrator, and Sponsor Superintendent or Director.

(11) The Food Safety Inspection Annual Report will be provided to ODE CNP by June 30 of each year.

Stat. Auth.: ORS 326

Stats. Implemented: 7 CFR210 & 7 CFR220.7

Hist.: EB 15-1987, f. & ef. 7-30-87; EB 2-1996, f. & cert. ef. 1-29-96; ODE 5-2002(Temp), f. & cert. ef. 2-1-02 thru 6-30-02; ODE 15-2002, f. & cert. ef. 6-10-02

581-051-0400

Breakfast Programs

This rule outlines the criteria for a waiver from the breakfast program:

(1) As used in this rule:

(a) “Site” means the school where the children participating in the United States Department of Agriculture (USDA) lunch program are enrolled;

(b) “Lunch” means USDA reimbursable lunch;

(c) “Breakfast” means USDA reimbursable breakfast.

(2) A school district may apply to the State Board of Education for a waiver from providing a breakfast program for all or for individual sites if it is financially unable to implement or maintain a breakfast program.

(3) A request to the State Board of Education for a waiver shall be made by the local school superintendent or designee and contain at least the following:

(a) A projected revenue and expense statement for one year for the breakfast program including descriptions of each line item;

(b) Copy of one month’s menus;

(c) Copy of the staffing pattern for the breakfast program;

(d) Projected breakfast participation levels and the percentage of those qualifying for free, reduced-price and paid meals;

(e) Number of students currently approved for free and reduced price for the National School Lunch Program;

(f) Anticipated breakfast charges for paid and reduced-price meals;

(g) A statement explaining why the school district is financially unable to provide the breakfast program.

(h) Copy of class schedule for each site included in the waiver request.

(4) For each request received, the State Superintendent shall make a recommendation to the State Board of Education based on the data submitted by the requesting district.

(5) Waiver requests are evaluated by Oregon Department of Education Child Nutrition staff to assist the State Superintendent in making a recommendation. Evaluation may include an on-site visit.

(6) The State Board of Education, upon review of the Superintendent's recommendations and data submitted by requesting districts, may grant a waiver for a period not to exceed two years, after which the district may submit a request for an extension of the waiver for an additional year.

Stat. Auth.: OL 1991, Ch. 500

Stats. Implemented: ORS 327.535

Hist.: EB 13-1992, f. & cert. ef. 4-7-92; ODE 18-2004, f. & cert. ef. 8-10-04

581-051-0500

Purpose of Rules

These rules are adopted to assist Oregon School Districts in the development of contracts for food service management services.

Stat. Auth.: ORS 326.051, 7 CFR 210.21 & 7 CFR part 3015, 3016, 3019

Stats. Implemented:

Hist.: ODE 6-1999, f. & cert. ef. 1-12-99; ODE 19-2004, f. & cert. ef. 8-10-04

581-051-0510

Definitions

The following definitions apply to the Rules 581-051-0500 to 581-051-0590.

(1) "Competitive Negotiation" means a method of procurement whereby proposals are solicited from a number of sources, proposals are evaluated according to published criteria, and negotiations are conducted with one or more of the proposers.

(2) "Contract" means an agreement in writing, including the Sponsor's solicitation document and the accepted portions of the proposal, between a Sponsor and a Food Service Management Company, describing the work to be done and the obligations of the parties.

(3) "Department" means the Department of Education.

(4) "Sponsor" means any Oregon school district and any school, of high school grade or under, recognized as part of the educational system of this state and operating under private nonprofit or public ownership, in a single building or campus; and public or licensed private nonprofit residential child care facility; or any other entity meeting the definition of "school food authority" under 7 CFR Section 210 et seq., Section 220 et seq., Section 225 et seq., and Section 226 et seq.

(5) "Food Service Management Company" means a commercial enterprise or nonprofit association that contracts or proposes to contract with a Sponsor to manage any aspect of school food service. FSMC may contract or propose to contract with Sponsors participating in the Child and Adult Care for meals only.

(6) "Food Service Management Services" means management of any aspect of food service.

(7) "Federal Policy" means any directive adopted and published by the United States Department of Agriculture which regulates or interprets regulations, or which recommends procedures or standards for implementation, of Child Nutrition Programs. Federal policy specifically includes, but is not limited to, the publications "Contracting with Food Service Management Companies: Guidance for School Food Authorities," June 1995, and "Contracting with Food Service Management Companies: Guidance for State Agencies," June 1995, and any amendments and revisions to said publications.

(8) "Meal Equivalency Ratio" means the number of dollars in non-reimbursable food sales per equivalent pattern meal. It is a component of payment structure in many FSMC contracts. Where

contracts provide for payment of a fee based on the number of meals and allow service of foods other than reimbursable pattern meals (such as a la carte food sales, catered food sales, and other similar food sales), the contract shall provide that sales of food other than reimbursable pattern meals be converted into an equivalent number of reimbursable meals.

(a) The ratio is based on National School Lunch Program meals.

(b) The value of a reimbursable meal is the current free reimbursement rate plus the per meal commodity rate.

(9) "National School Lunch Program" means the program under which participating schools operate a nonprofit lunch program in accordance with Part 210, Title 7, Code of Federal Regulations. Cash assistance and donated food assistance are made available to schools pursuant to this program.

(10) "Proposal" means a competitive offer, binding on the offer or and submitted in response to a Request for Proposals, where proposal evaluation and contract award is based on criteria such as proposer qualifications and experience, service features and characteristics, quality and efficiency, and conformance with the specifications and requirements of the solicitation. Price must be an evaluation criterion for proposals, but will not necessarily be the predominant basis for contract award.

(11) "Requests for Proposals" means an instrument of competitive negotiation used to solicit proposals from a number of sources.

(12) "Responsible Offeror" means an individual, firm or corporation who has the experience and capacity in all respects to perform fully the contract requirements, the integrity and reliability which will assure good faith performance, and who has not been disqualified by regulation.

(13) "School Year" means the period from July 1 of each calendar year to June 30 of the following calendar year.

(14) "Twenty-One Day Cycle Menu" means the menu with food item specifications developed in accordance with 7 CFR Section 210.10 or 210.10a, as applicable.

(15) "Vendor" means a commercial enterprise or nonprofit association that contracts or proposes to contract with a Sponsor to provide only food without management. These organizations are not Food Service Management Companies (FSMC).

Stat. Auth.: ORS 326.051, 7 CFR 210.21 & 7 CFR part 3015, 3016, 3019

Stats. Implemented:

Hist.: ODE 6-1999, f. & cert. ef. 1-12-99; ODE 20-2004, f. & cert. ef. 8-10-04

581-051-0520

Scope of Rules

These rules apply to the solicitation, award, renewal, and execution of contracts between Sponsors and FSMCs within this State. Agreements that provide only for the provision of food, without management, are not subject to these rules.

Stat. Auth.: ORS 326.051, 7 CFR 210.21 16, 220.16, 225.17, 226.22 & 7 CFR part 3015

Stats. Implemented:

Hist.: ODE 6-1999, f. & cert. ef. 1-12-99; ODE 21-2004, f. & cert. ef. 8-10-04

581-051-0530

Responsibilities of the Oregon Department of Education

(1) The Oregon Department of Education shall receive and disburse federal funds made available by acts of Congress for the assistance of public and private nonprofit organizations, including Districts, as defined herein, in providing food services to children and adults according to the provisions of the National School Lunch Program, School Breakfast Program, Special Milk Program, Child and Adult Care Food Program and Summer Food Service Program.

(2) The Department shall not disburse funds to any Sponsor if it finds that such Sponsor is substantially in violation of any provision of these rules or of the Richard B. Russell National School Lunch Act, 42 U.S.C. Sec. 1751 as amended or Child Nutrition Act of 1966, 42 U.S.C. Sec. 1771 as amended. Upon determining that a Sponsor is substantially in violation, the Department shall promptly notify the Sponsors and its retained FSMC, if any, in writing of the determination to withhold funds. The sponsor shall recover funds

withheld only after the defect is corrected. The Sponsor shall also have the right to appeal the determination in accordance with the Contested Case Procedures promulgated by the Oregon State Attorney General.

(3) The Department shall annually review all contract documents between Sponsors and FSMCs for conformity to these rules. The Department shall publish a Request for Proposal (RFP) and contract outlining the required general form and language of contract between Sponsors and FSMCs. The use of the department developed RFP and contract, which is attached here to and by this reference incorporated in these rules, by the Sponsor to secure services from an FSMC is mandatory.

(4) The Department shall conduct administrative and nutrition reviews of contracting Sponsors at least once every five years. Such reviews will include an assessment of the Sponsor's compliance with 7 CFR 210.16.

(5) Upon request, the Department may provide technical assistance to Sponsors related to the National School Lunch Program, School Breakfast Program, Child and Adult Care Food Program, or Summer Food Service Program. Such assistance may include, but is not limited to:

(a) Development of a 21-day cycle menu with food item specifications;

(b) Nutrition monitoring and advising;

(c) Audit of fiscal and other records;

(d) Training of Sponsor Staff;

(e) Coordination with FSMCs; and

(f) Arbitration of disputes over interpretation of a Contract.

(6) Whenever review and approval of an action or document by the Department is required by these rules, the Department shall review and either approve or disapprove promptly. In the event that the Department has neither approved nor disapproved such document or action within 30 days, the document or action shall be deemed to have been approved.

Stat. Auth.: ORS 326.051, 7 CFR 210.220, 225, 226 & 7 CFR part 3015, 3016, 3019

Stats. Implemented:

Hist.: ODE 6-1999, f. & cert. ef. 1-12-99; ODE 22-2004, f. & cert. ef. 8-10-04

581-051-0550

Contracts Authorized

No Sponsor shall execute a contract or otherwise agree, formally or informally, to purchase food service management services except when all of the following conditions are fulfilled:

(1) The contract is in compliance with all applicable laws, rules and regulations, including but not limited to guidelines promulgated and published by the United States Department of Agriculture pursuant to the National School Lunch Program, School Breakfast Program, Child and Adult Care Food Program, or Summer Food Service Program;

(a) The agreement for Food Service Management Services is made in writing, contains all terms required by OAR 581-051-0580 herein;

(b) The FSMC has been selected after a procurement process that conforms to the requirements of OAR 581-015-0570 herein;

(2) The contract is approved by the Sponsor's board or governing body; and

(3) The contract has been reviewed and approved by the Department.

Stat. Auth.: ORS 326.051, 7 CFR 210.21 & 7 CFR part 3015, 3016, 3019

Stats. Implemented:

Hist.: ODE 6-1999, f. & cert. ef. 1-12-99; ODE 23-2004, f. & cert. ef. 8-10-04

581-051-0555

Contract Renewal

The sponsor shall renew its contract with FSMC only if all of the following conditions are satisfied:

(1) The original contract allows for annual renewal and the total contract term does not exceed five years, original contract year plus four renewals;

(2) The Sponsor consents to the renewal by action of the board;

(3) There is no change in financial terms, unless so designated in the original agreement. Contracts may not allow for an unlimited or discretionary change to the meal fee at renewal. Contracts may allow for an annual change to the meal fee not to exceed 20 percent.

Stat. Auth.: ORS 326.051, 7 CFR 210.21 & 7 CFR part 3015, 3016, 3019

Stats. Implemented:

Hist.: ODE 6-1999, f. & cert. ef. 1-12-99; ODE 24-2004, f. & cert. ef. 8-10-04

581-051-0560

Responsibilities of Sponsors

Every Sponsor shall:

(1) Hire or retain a FSMC only in accordance with these rules and with federal policy.

(2) Includes in its request for proposals the 21-day cycle menu with food specifications.

(3) Ensure that food provided by FSMCs is consistent with the 21-day cycle menu, meet food specifications and of good quality; changes to the 21-day cycle menu may be made after 21 days of implementation, upon mutual agreement of the sponsor and the FSMC;

(4) Monitor the operation and performance of the FSMC to ensure that the FSMC complies with the contract, with these rules and with federal policy. The Sponsor shall maintain records of same, and provide such records to the Department upon request;

(5) Coordinate, monitor, review and control food service operations, and perform the responsibilities that must be retained by Sponsors under federal policy, including but not limited to:

(a) National School Lunch Program, School Breakfast Program, Special Milk Program;

(b) Signature authority of state agency — sponsor agreement;

(c) Activities contained in the free and reduced price policy statement;

(d) Claiming;

(e) Use of nonprofit food service account revenues only for allowable costs;

(f) Ensure full utilization of federally donated foods for the benefit of the school food service program;

(g) Annual food safety inspections;

(h) Establishing an advisory board composed of parents, teachers and students to assist in menu writing three times a year;

(6) Child and Adult Food Program:

(a) Assign Sponsor staff with authority to manage program;

(b) Assure compliance with regulations;

(c) Approve Confidential Income Statements and develop OMAR;

(d) Monitor sites;

(e) Correct problems found during site monitoring or record reviews;

(f) Train staff with CACFP duties;

(g) Attend annual ODE training for CACFP Sponsors;

(h) Approve menus;

(i) Review and maintain all required CACFP records; actual menus served, documentation demonstrating CACFP menu compliance; invoices for meals purchased; confidential income statements,

(j) Validate and submit reimbursement claims;

(k) Communicate with FSMC;

(l) Complete annual ODE Agreement Renewal application Summer Food Service Program:

(A) Ordering meals for sites;

(B) Maintaining program records;

(C) Submitting claim for reimbursement;

(D) Training and monitoring sites;

(E) Determining eligibility for free and reduced price meals in order to establish site eligibility.

(7) Administer the contract so as to provide for good, efficient and effective use of public funds, and avoid delegating responsibility for contract administration to the FSMC;

(8) If the contract provides for reimbursement of costs to the FSMC, independently monitor costs incurred under the contract for

compliance with 7 CFR Sec. 3015, 3016 or 3019, and other applicable federal policies; and

(9) Perform all functions required by federal regulation and by guidance of the United States Department of Agriculture.

Stat. Auth.: ORS 326.051, 7 CFR 210.21 & 7 CFR part 3015

Stats. Implemented:

Hist.: ODE 6-1999, f. & cert. ef. 1-12-99; ODE 25-2004, f. & cert. ef. 8-10-04

581-051-0565

Responsibilities of Food Service Management Companies

(1) A FSMC shall sign and perform its duties under a contract for food service management services in accordance with these rules and federal policy.

(2) The FSMC shall serve meals substantially as described in the sponsor's 21-day cycle menu, and which shall not be of lesser quality, appeal, or nutritional value than as described in the 21-day cycle menu.

(3) The FSMC shall maintain complete business and financial records of the food service operations and shall make them available upon request to the Department or its authorized designee.

(4) The FSMC shall refrain from performing any function under USDA regulations and procedures, which is the non-delegable responsibility of a School Food Authority.

(5) The FSMC shall seek reimbursement of food costs and administrative expenses only as follows:

(a) Food costs must be 100 percent of actual and reasonable costs paid to independent third parties who negotiate with the FSMC at arms' length. If food is manufactured or provided by the FSMC itself, the FSMC must independently demonstrate to the satisfaction of the Sponsor and of the Department that such costs are not above market. If the FSMC receives from third parties any rebate or discount against commodity or purchased food costs which have been charged to the Sponsor, such rebates and discounts must be refunded to the Sponsor; and

(b) Reimbursable administrative expenses must be actual and reasonable and must relate solely to administration of the food service management at the particular Sponsor served and not to Sponsors or customers of the FSMC in general.

(6) All food service management companies who contract with Oregon schools and other sponsors to provide food services will be required to meet the same employee screening standards as other school district employees. Such standards should include, but not be limited to fingerprint screening and criminal conviction screening applicable to school employees. Such standards should be consistent with ORS 326.603 and OAR 581-22-0716.

Stat. Auth.: ORS 326.051, 7 CFR 210.16, 226.21, 225.15(h) & 7 CFR part 3015, 3016, 3019

Stats. Implemented:

Hist.: ODE 6-1999, f. & cert. ef. 1-12-99; ODE 26-2004, f. & cert. ef. 8-10-04

581-051-0570

Procurement Procedures Required

(1) Sponsors shall procure food service management services in accordance with the requirements of these rules, as well as with 7 CFR Part 3015, 3016, 3019 and other applicable contracting laws. Each sponsor shall also comply with such public contracting rules and regulations as it may have adopted, or if a sponsor has adopted no public contracting rules and regulations as it may have adopted, or if a sponsor has adopted no public contracting rules and regulations, the sponsor shall comply with the **Oregon Attorney General's Model Public Contract Rules**, OAR 137-030-0000 et seq.

(2) Sponsors shall conduct procurement for food service management services in a manner as to maximize free and open competition by issuance of Requests for Proposals.

(a) The Request for Proposal shall:

(i) Specify the scope of work required;

(ii) Specify the criteria which will be used to evaluate proposals, and the relative importance of each criterion; and

(iii) Specify the manner in which proposals will be evaluated.

(b) The RFP shall include a contract form which is identical to the document issued by the Department pursuant to OAR 581-051-0530(3);

(c) The Sponsor shall provide the Department with a copy of the RFP 60 days prior to publication for review.

(d) The Sponsor shall solicit proposals from qualified sources to permit reasonable competition, consistent with the nature and requirements of the procurement;

(e) The Sponsor shall evaluate the proposals in accordance with the published criteria and shall ensure that it has, or shall else retain, adequate technical expertise to reasonably evaluate the proposals. The Sponsor may avail itself of technical assistance from the Department as authorized in OAR 581-051-0530(5);

(f) The Sponsor will negotiate price and terms with top-ranked offerors.

(g) The Sponsor shall make award to the responsible offeror whose proposal is most advantageous to the District;

(h) The Sponsor shall submit the contract with the selected proposer to the Department for review within 10 days after Board or governing body of the District has approved the selected proposer.

(i) The sponsor shall submit the final contract to the Department within 10 days after signature;

(j) Alternative procurement methods may be approved by the Department.

(3) Sponsors shall not:

(a) Place any unreasonable requirement upon proposers that would tend to exclude qualified proposers;

(b) Foster or encourage any collusion between proposers or other noncompetitive practice;

(c) Allow any conflict of interest that is prohibited by Oregon law;

(d) Use a form of RFP or contract that has been provided by an FSMC in preparing the Request for Proposal;

(e) Negotiate with any proposer prior to evaluation of all proposals;

(f) Disclose the contents of any proposal to another proposer until all proposals are opened and made public;

(g) Provide relevant information to only some and not to all proposers.

(4) Exception for secondary contract. Any Sponsor may, without Requests for Proposals, enter into an agreement with any other Sponsor which has a valid contract for food service management, for the provision of meals, provided that:

(a) The subordinate Sponsor is otherwise qualified as a School Food Authority under 7 CFR;

(b) The subordinate Sponsor entered into a written agreement for delivery of meals;

(c) The proceeds of such meals and reimbursements are kept in segregated accounts under the management of the subordinate Districts; and

(d) The subordinate Sponsor fulfills the obligations of a Sponsor under OAR 581-051-0560 herein.

Stat. Auth.: ORS 326.051, 7 CFR 210.21, 220.16, 225.17, 226.22 & 7 CFR part 3015, 3016, 3019

Stats. Implemented:

Hist.: ODE 6-1999, f. & cert. ef. 1-12-99; ODE 27-2004, f. & cert. ef. 8-10-04

581-051-0580

Contract Terms Required

(1) Financial terms and payment provisions must be objective and unambiguous, such that two different parties are able to independently calculate the cost or payment and obtain identical results. Administrative and management fees must be itemized in detail to accurately describe the actual costs incurred by the FSMC for which the Sponsor will make payment.

(2) All revenue and expenses must accrue to the non-profit school food service account, never the District or the FSMC.

(3) Where a contract provides for special functions outside the nonprofit school food service, the contract must delineate the cost allocation for those special functions in such a manner as to demonstrate that labor costs will not be double billed for program meals and special function meals.

(4) The contract shall provide a fiscal guarantee to the District.

(5) Where the contract permits a la carte food sales and the conversion of a la carte sales into equivalent pattern meals, the calculation to make that conversion is to be the current NSLP free reimbursement rate plus the commodity value rate.

(6) No change in charges payable to the FSMC from the Sponsor shall be permitted upon contract renewal unless the contract in place contains specific terms permitting such change.

(7) Annual increases in charges payable to the FSMC from the Sponsor upon contract renewal shall be limited to such reasonable predictions of anticipated increased costs as are defined in the original Contract.

(8) Contracts shall be based on a one-month accounting period, consistent with Department and Sponsor accounting practices.

(9) The following terms are prohibited and may not be included in any contract for the management of food service operations in Oregon schools:

(a) A "cost plus" fee structure in which the Sponsor pays to the FSMC cost plus a percentage of cost or income;

(b) Duplicate fee structures that permit a FSMC to bill management fees and charge the same costs as cost-reimbursable expenses;

(c) Purchasing clauses, where the Sponsor makes purchases that limit the selection of vendors to only those approved by the FSMC;

(d) Acceleration clauses that require full payment of multi-year equipment purchases if the contract is not renewed;

(e) Interest may not be charged for past due invoices, equipment purchases, or any other reason to the extent that federal program funds are used in payment;

(f) Contingent return provisions that make the financial guarantee of the contract contingent upon contract renewal or multi-year performance of the contract;

(g) Automatic renewal of the contract, or any other process for renewal inconsistent with OAR 581-051-0550 or any provision acting as penalty for non-renewal;

(h) Subcontracting of food service management operations;

(i) Loans from the FSMC to the District, whether in the form of direct lending, advances of payments, or deferral of invoices due; and

(j) Restrictions on the ability of the Sponsor to rehire non-management FSMC food service employees in the event that the contract is not renewed.

Stat. Auth.: ORS 326.051, 7 CFR 210.16, 220.16, 225.15(h), 226.21 & 7 CFR part 3015, 3016, 3019
Stats. Implemented:
Hist.: ODE 6-1999, f. & cert. ef. 1-12-99; ODE 28-2004, f. & cert. ef. 8-10-04

581-051-0590

Meal Quality

The nutrition standards of Section 210.10, 210.10a, 220.8a, 225.16, and 226.20 of Title 7, Code of Federal Regulations shall apply to all programs under these rules.

Stat. Auth.: ORS 326.051, 7 CFR 210.21 & 7 CFR part 3015
Stats. Implemented: Federal Regulations
Hist.: ODE 6-1999, f. & cert. ef. 1-12-99

DIVISION 53

SCHOOL BUS DRIVER TRAINING, LICENSING, AND SCHOOL BUS STANDARDS

581-053-0002

Purpose and Applicability

(1) The purpose of the rules set forth in this division is to ensure the safety of students while being transported to or from school or authorized school activities by establishing standards for vehicle construction, driver qualifications, vehicle and record inspections, and administrative provisions of pupil transportation;

(2) The rules in this division apply to all school districts and individual schools, including public, private, parochial, public charter, and alternative schools, and education service districts and

head start agencies which provide transportation services to students from home to school or to authorized school activities, either through internal or contracted services.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: IEB 13-1978, f. 4-3-78, ef. 9-1-78; IEB 5-1979, f. & ef. 3-30-79; EB 3-1987, f. & ef. 2-18-87; EB 43-1988, f. 12-16-88, cert. ef. 1-1-89; EB 5-1992, f. & cert. ef. 2-21-92; EB 21-1993, f. & cert. ef. 6-2-93; ODE 11-1999, f. & cert. ef. 2-12-99; ODE 30-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 7-2002, f. & cert. ef. 3-11-02; ODE 1-2003(Temp), f. & cert. ef. 3-4-03 thru 8-1-03; ODE 11-2003, f. & cert. ef. 6-13-03; ODE 11-2004, f. & cert. ef. 8-4-04; ODE 16-2007, f. & cert. ef. 7-6-07; ODE 27-2007, f. & cert. ef. 10-26-07; ODE 4-2011, f. & cert. ef. 3-17-11; ODE 19-2012, f. & cert. ef. 6-14-12

581-053-0003

Definitions

The following terms used in OAR chapter 581, division 53 shall be defined as follows:

(1) "Accident" means an occurrence that results in any of the following:

(a) An injury requiring medical or dental treatment.

(b) Combined vehicle and property damage in excess of \$500.

This includes:

(A) Damage to the school bus or school activity vehicle; and

(B) Damage to property other than the school bus or school activity vehicle, including damage to another school bus or school activity vehicle, or transportation entity property.

(2) "Activity trip" means transportation between a school or location to another school or location, but not home-to-school.

(3) "Actual knowledge" means direct and clear awareness of a circumstance or fact, resulting from either observation or investigation.

(4) "Approved" means a motor carrier approved by ODE for transportation of school children for activity trips.

(5) "Authorized official" means a person designated by the local employer.

(6) "CDL" means a commercial driver license as defined in ORS 801.207.

(7) "CFR" means code of federal regulations.

(8) "CLP" means a commercial learners permit issued by this state or another jurisdiction to allow an individual to be trained on the operation of a commercial motor vehicle, including a school bus.

(9) "Carrier or Motor carrier" means for-hire carrier or private carrier subject to ORS Chapter 825.

(10) "Certificate of Carrier Approval" means a certificate from ODE authorizing a motor carrier to transport students for Oregon schools.

(11) "Chaperone" means a person authorized by the school district.

(12) "Chargeable Accident" is an accident in which the driver is answerable as the primary cause of, or the result of, the accident.

(13) "Classroom instructor" means a person who holds one or more of the following certificates issued by ODE:

(a) Core Instructor Certificate;

(b) Core Refresher Instructor Certificate; or

(c) Transporting Students with Special Needs Instructor Certificate.

(14) "Contractor" means any company, organization or person that provides transportation services to a transportation entity and is not subject to ORS Chapter 825 while providing that service.

(15) "DMV" means the Oregon Department of Transportation, Driver and Motor Vehicle Services Division.

(16) "Diabetic person" means a person who takes insulin.

(17) "Driving instructor" means a person who holds one of the following certificates issued by ODE:

(a) Behind-the-Wheel Trainer Certificate;

(b) Behind-the-Wheel Probationary Trainer Certificate;

(c) Advanced Reference Point Trainer Certificate; or

(d) Assistant Trainer Certificate.

(18) "FMCSA" means the Federal Motor Carrier Safety Administration.

(19) “Invalid” means a certificate or permit that has expired, has been made inactive, or is otherwise immediately disqualified by rule.

(20) “Medical certificate” is defined in OAR 735-063-0060.

(21) “Home to School” means transportation between the student’s residence, babysitter, daycare or designated pick up or drop off spot and their educational facility.

(22) “Motor coach” means an over-the-road bus, having a gross vehicle weight rating (GVWR) of 26,000 lbs or more but does not include the following:

(a) Buses used in public transportation provided by a State or local government; and

(b) Vehicles owned or operated by a mass transport district created under ORS Chapter 267.

(23) “OAR” means Oregon Administrative Rule(s).

(24) “ODE” means the Oregon Department of Education.

(25) “ORS” means Oregon Revised Statute(s).

(26) “Provider of Motor coach services” means a motor carrier providing passenger transportation service with a motor coach for compensation, including per-trip compensation or chartered compensation.

(27) “Refused” means that ODE has determined that an applicant is unqualified for the certificate or permit being applied for.

(28) “Rejected” means that an application for certificate or permit is incomplete and no determination of qualification will be made.

(29) “Revoke” means the termination of one or more certificates or permits. Revoked certificates are not reinstated at the end of the revocation period. Individuals who have had a certificate revoked shall reenter the program in the same way as an individual entering the program for the first time.

(30) “School board” means the governing board or governing body of the transportation entity.

(31) “School activity vehicle” is defined in ORS 801.455 and includes all such vehicles that are owned, leased, or rented by a transportation entity.

(32) School Activity Vehicle Types:

(a) “Type 10 vehicle” means a vehicle that has a capacity of not more than ten persons, a gross vehicle weight rating of not more than 10,000 pounds and are used to transport students to and from school or authorized school activities.

(b) “Type 20 vehicle” means a vehicle that has a capacity of not more than 20 passengers, a gross vehicle weight rating of not more than 14,500 pounds, and are used to transport students to and from authorized school activities.

(c) “Type 21 vehicle” means a vehicle that has a capacity of more than 20 passengers or a gross vehicle weight rating of more than 14,500 pounds, and is used to transport students to and from authorized school activities.

(d) “School pupil activity bus (SPAB)” means a motor coach with a gross vehicle weight rating of more than 26,000 pounds and operated by a motor carrier, used under a contractual agreement between a transportation entity and a carrier to transport school pupils on activity trips.

(33) “School bus” is defined in ORS 801.460 and includes all such vehicles that are owned, leased, or rented by a transportation entity.

(34) School Bus Types:

(a) “Type A-1” means a school bus with a gross weight rating of 14,500 pounds or less.

(b) “Type A-2” means a school bus with a gross weight rating between 14,500 and 19,500 pounds, and a passenger capacity not to exceed 36.

(c) “Type B” means a school bus with a gross weight rating between 10,000 pounds and 19,500 pounds. Most of the engine is beneath and/or behind the windshield and beside the driver’s seat. The entrance door is behind the front wheels.

(d) “Type C” means a school bus with all or part of the engine in front of the windshield and the entrance door behind the front wheels.

(e) “Type D” means a school bus with the engine mounted in the front behind the windshield, midship, or rear. The entrance door is ahead of the front wheels.

(35) “Skills test” means the test given to a school bus or school activity vehicle driver prior to certification or approval to drive that type of vehicle. The skills test is composed of the following tests:

(a) Vehicle Inspection Test

(b) Basic Control Skills Test (only applicable to a school bus or type 21 test)

(c) On-Road Driving Test

(36) “Submit” means that a document has been received by ODE

(37) “Supervisor”:

(a) Prior to July 1, 2015 means a person authorized by the transportation entity or contractor.

(b) On or after July 1, 2015 means a person designated by the transportation entity or contractor who holds ODE Supervisor Certification.

(38) “Suspend” means the temporary withdrawal of one or more certificates or permits for a period not to exceed one year. Suspended certificates are reinstated at the end of the suspension period provided that all other certificate requirements are met.

(39) “Trained in first aid” means a person who possesses a valid first aid card verifying completion of a hands-on first aid class that meets the requirements of the American Red Cross first aid program or an equivalent course that is consistent with the Best Practices Guide: Fundamentals of a Workplace First-Aid Program (OSHA 3317-2006) published by the Occupational Safety Health Administration, U.S. Department of Labor. The training program shall include instructor observation of acquired skills and shall include, but not be limited to, the following training:

(a) Curriculum based on a consensus of scientific evidence;

(b) Treating airway obstruction in a conscious victim;

(c) Recognizing the signs and symptoms of shock and providing first aid for shock due to illness or injury;

(d) Controlling bleeding with direct pressure;

(e) Poisoning;

(f) Wounds;

(g) Burns;

(h) Temperature Extremes;

(i) Musculoskeletal Injuries;

(j) Eye Injuries;

(k) Mouth and Teeth Injuries; and

(l) Bites and Stings.

(40) “Transportation entity” means any school district, individual school, educational service district or head start agency to which the rules of this division apply.

(41) “Transportation service” means home to school or school to home transportation provided to a qualifying student, regardless of how that transportation is provided.

(42) “Valid” means an unexpired, active certificate or permit with no automatic disqualifiers listed in the rule for that certificate or permit.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12; ODE 40-2014, f. & cert. ef. 9-3-14

581-053-0004

General

(1) Transportation entities shall provide transportation in compliance with all applicable laws and administrative rules.

(2) Transportation entities that contract out all or part of their pupil transportation services are required to ensure that their contractor complies with all applicable laws and administrative rules.

(3) Transportation entities or contractors shall not require or knowingly permit any person to operate a school bus or school activity vehicle in violation of any applicable rules of the State Board of Education or Oregon laws.

(4) Transportation entities or contractors shall notify ODE within 30 days if they have actual knowledge that:

(a) A school bus or school activity vehicle driver has violated an ORS or OAR; and

(b) Student or public safety was jeopardized by the violation.

(5) Transportation entities or contractors shall notify ODE within 30 days anytime a school bus or school activity vehicle driver leaves their employment or is hired while already possessing an otherwise valid certificate or permit:

(6) Each school board shall adopt and implement written policies that:

(a) Direct schools governed by the board to notify the transportation service provider's designee if students receiving transportation services have special medical or behavioral protocols identified in their student records; and

(b) Ensure drivers receive appropriate and documented training related to specified protocols, including but not limited to satisfying confidentiality requirements.

(7) Relocation of school buses and school activity vehicles:

(a) Written notification must be sent to ODE when a school bus or school activity vehicle is moved to another transportation entity for a period exceeding 10 days.

(b) Written notification must be sent to ODE when a school bus or school activity vehicle is received from another transportation entity for a period exceeding 10 days.

(c) School buses with a manufacture date prior to September 1, 1998 may not be relocated.

(d) Type 20 and Type 21 school activity vehicles with a manufacture date prior to September 1, 1994 may not be relocated.

(8) A seat that fully supports the passenger shall be provided for every passenger on all school buses and school activity vehicles. Seating is not permitted on any portion of the vehicle not designed for that purpose. Passengers shall not be permitted to stand while the vehicle is in motion.

(9) Transportation entities and contractors shall provide for the required training, examination and testing of their school bus and school activity vehicle drivers to comply with rules promulgated by the State Board of Education. Appropriate specialized training designed for special needs transportation shall be provided prior to allowing drivers to transport students with disabilities. Records to document training and testing shall be maintained by transportation entities. Such records shall be made part of each driver's driver-training record file. Records shall be made available to ODE personnel or the driver upon request.

(10) Transportation entities and contractors that use aides, either assigned to specific bus routes or to specific students, shall receive training on emergency procedures and their role in the safe transportation of all students on the bus.

(11) Transportation entities or contractors employing school bus drivers or school activity vehicle drivers shall immediately notify ODE if they have reason to believe any change has occurred in an employed driver's criminal or driving record that could affect the driver's qualifications under the provisions of OAR 581-053-0050.

(12) When a school bus driver requires a physical exam as required by OAR 581-053-0040 or a school activity driver requires a physical exam as required by 49 CFR 391.41-381.49, the transportation entity or contractor shall verify that the driver was certified by a medical examiner listed on the National Registry of Certified Medical Examiners as of the date of issuance of the medical examiner's certificate.

(13) A transportation entity or contractor shall notify ODE in writing within 30 days of when they receive notification that a school bus driver employed by the entity or contractor:

(a) No longer meets the physical requirements for school bus drivers specified in OAR 581-053-0040;

(b) Fails to comply with the testing or screening requirements established by the Federal Motor Carrier Safety Administration for commercial drivers at title 49 CFR part 382.

(14) Transportation entities shall submit accident reports to ODE, signed by a supervisor or designee, within 72 hours of the crash. In the case of an accident involving serious injury or death, ODE shall be notified immediately.

(15) Transportation entities shall report to ODE statistics related to pupil transportation.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12; ODE 40-2014, f. & cert. ef. 9-3-14

581-053-0010

Rules Governing Pupils Riding School Buses and School Activity Vehicles

(1) Pupils being transported are under authority of the bus driver.

(2) Fighting, wrestling, or boisterous activity is prohibited on the bus.

(3) Pupils shall use the emergency exit only in case of emergency.

(4) Pupils shall be on time for the bus both morning and evening.

(5) Pupils shall not bring firearms, weapons, or other potentially hazardous material on the bus.

(6) Pupils shall not bring animals, except approved assistance guide animals on the bus.

(7) Pupils shall remain seated while bus is in motion.

(8) Pupils may be assigned seats by the bus driver.

(9) When necessary to cross the road, pupils shall cross in front of the bus or as instructed by the bus driver.

(10) Pupils shall not extend their hands, arms, or body parts through bus windows.

(11) Pupils shall have written permission to leave the bus other than at home or school.

(12) Pupils shall converse in normal tones; loud or vulgar language is prohibited.

(13) Pupils shall not open or close windows without permission of driver.

(14) Pupils shall keep the bus clean, and must refrain from damaging it.

(15) Pupils shall be courteous to the driver, to fellow pupils, and passersby.

(16) Pupils who refuse to obey promptly the directions of the driver or refuse to obey regulations may forfeit their privilege to ride buses.

(17) Rules Governing Pupils Riding School Buses and School Activity Vehicles must be kept posted in a conspicuous place in all school buses, type 20, and type 21 activity vehicles.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: 1EB 118, f. 11-28-67, ef. 12-25-67; 1EB 134, f. 6-26-72, ef. 7-15-72; 1EB 217, f. 2-17-76, ef. 3-15-76; EB 25-1993, f. & cert. ef. 7-30-93; ODE 19-2012, f. & cert. ef. 6-14-12

581-053-0021

Minimum Record Retention Requirements

(1) Accident reports shall be retained for three years.

(2) Annual vehicle inspection shall be retained until the vehicle is sold.

(3) Application for school bus driver's permit or certificate (copy) shall be retained for four years or for one year after the transportation entity or contractor notifies ODE that the driver is no longer active, whichever occurs first.

(4) Application for type 20 driver's certificate shall be retained for four years or for one year after the transportation entity or contractor notifies ODE that the driver is no longer active, whichever is first.

(5) Approval of a temporary school bus driver shall be retained until July 1, following approval.

(6) Approval of a type 10 driver shall be retained until the transportation entity or contractor notifies ODE that the driver is no longer active with them.

(7) Driver vehicle inspection reports shall be retained for three months.

(8) License approvals for school buses and school activity vehicles shall be retained until the vehicle is sold.

(9) Performance checklist for school bus, type 20, and type 21 drivers shall be retained until one year after the transportation

entity or contractor notifies ODE that the driver is no longer active with them.

(10) Safety instruction records required in OAR 581-053-0210 (Transportation Entity Requirements for School Buses) shall be retained for four years.

(11) Safety instruction records required in OAR 581-053-0610 (Transportation Entity Requirements for School Pupil Activity Buses) shall be retained for two years.

(12) School bus driver training attendance records shall be retained for four years.

(13) Skills tests administered to school bus, type 10, type 20, or type 21 drivers shall be retained until one year after the driver is made inactive with ODE.

(14) Vehicle maintenance records in OAR 581-053-0070 shall be retained until the vehicle is sold.

(15) Further record requirements can be found in OAR Chapter 166, Division 400 Secretary of State Archives Division Educational Service Districts, School Districts, and Individual School Records Retention Schedule. In the case of a conflict between the record retention requirements of the two rules, the stricter requirement shall prevail.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

581-053-0031

Driving Hour Limitations

(1) A driver of a school bus or school activity vehicle shall comply with one of the following driving hour regulations:

(a) Following eight hours free from driving a school bus or school activity vehicle, a driver may drive a school bus or school activity vehicle for ten hours in a 15 hour period; or

(b) Following eight hours free from driving a school bus or school activity vehicle, a driver may:

(A) Drive a morning route transporting students from home to school;

(B) Be free from driving a school bus or school activity vehicle for a minimum of four consecutive hours; and

(C) Drive a school bus or school activity vehicle for eight hours:

(i) In a ten hour period; or

(ii) Until midnight.

(2) A driver shall not drive more than three hours continuously without taking at least a 15-minute break from driving duties;

(3) Notwithstanding section (1) of this rule, in the event of an emergency or unforeseen circumstance a driver may complete the trip without being in violation of the provisions of this rule if such trip could have reasonably been completed as originally scheduled without violation of this rule.

(4) Notwithstanding all other sections of this rule, SPAB drivers shall follow FMCSA Hours of Service for Drivers regulations found at 49 CFR 395.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

581-053-0040

Physical Examinations

(1) An applicant for a school bus driver's permit or certificate, or renewal of a school bus driver's certificate must have passed a physical examination approved by the Oregon Department of Education and administered within six months prior to the date of application by an individual certified by FMCSA and listed on the National Registry of Certified Medical Examiners.

(2) Physicians completing the required ODE forms for diabetic persons must be a:

(a) Board certified endocrinologist;

(b) Board certified diabetologist;

(c) Board certified family practitioner; or

(d) Board certified internist.

(3) A cardiac stress test shall be required with medical examination given any evidence of myocardial infarction within the past three months or unstable angina pectoris. The examining physician

may require a resting electrocardiogram (ECG) or other testing as determined appropriate related to coronary insufficiency, thrombosis or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse or congestive heart failure.

(4) Physical examination and certificate application forms adopted by the ODE shall be utilized by applicants for a school bus driver's certificate or permit.

(5) An applicant is physically qualified to drive a school bus if the applicant:

(a) Has no impairment in the use of the driver's foot, leg, finger, hand or arm or other structural defect or limitation likely to interfere with the driver's ability to perform tasks associated with operating a school bus. Drivers may be required to demonstrate their ability to:

(A) Utilize a manually operated bus entrance door control with a force of at least 30 pounds;

(B) Ascend and descend steps with a maximum step height of 17 1/2 inches;

(C) Operate two hand controls simultaneously and quickly;

(D) Have a reaction time of 3/4 of a second or less from the throttle to the brake control;

(E) Carry or drag a 125 pound person 30 feet in 30 seconds or less;

(F) Depress a brake pedal with the foot to a pressure of at least 90 pounds;

(G) Depress a clutch pedal with the foot to a pressure of at least 40 pounds unless operating an automatic transmission; and

(H) Exit from an emergency door opening of 24 x 48 inches at least 42 inches from the ground in ten seconds or less.

(b) Is physically able to open all emergency exits installed in any school bus they drive; and

(c) Has no mental, nervous, organic or functional disease or disability likely to interfere with safe driving or other responsibilities of a school bus driver.

(d) Has visual acuity of at least 20/40 (Snellen) in each eye either with or without corrective lenses and a binocular acuity of at least 20/40 (Snellen) in both eyes either with or without corrective lenses. Form field of vision shall not be less than a total of 140 degrees and the ability to distinguish colors red, green and yellow. Drivers requiring corrective lenses shall wear properly prescribed lenses at all times while driving.

(e) Perceives a forced whispered voice in the better ear not less than five feet with or without the use of a hearing aid, or if tested by the use of an audiometric device, the applicant shall not have average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard Z24.5-1951. Drivers requiring a hearing aid shall wear a properly operating hearing aid at all times while driving.

(f) Controlled substances:

(A) Does not use any controlled substance identified in 21 CFR 1308.11 Schedule 1, an amphetamine, a narcotic, or other habit-forming drug.

(B) Does not use any non-Schedule I controlled substance except when the use is pursuant to the instructions of a licensed medical practitioner who is familiar with the driver's medical history and has advised the driver that the substance will not adversely affect the driver's ability to safely operate a school bus.

(g) Has no current clinical diagnosis of alcoholism.

(h) Has not had a loss of consciousness or loss of control (cognitive function) due to a diabetic event within the preceding one year period, provided there has not been a recurrent hypoglycemic reaction requiring assistance of another person within the previous five years. A period of one year of demonstrated stability is required following the first episode of hypoglycemia.

(i) Does not have a diabetic condition; Applicants with a diabetic condition may be physically qualified provided they comply with all of the following requirements. Drivers shall:

(A) Self-monitor their blood glucose and demonstrate a blood glucose level of more than 100mg/dl and less than 300 mg/dl,

using a device approved by the Food and Drug Administration, U.S. Department of Health and Human Services, within one hour before driving pupil transporting vehicles and approximately every four hours while on duty;

(B) Report immediately to their employer, any failure to comply with specific glucose level requirements as listed in paragraphs (i)(A) and (E) of this subsection, or loss of consciousness or control;

(C) Maintain a daily log of all blood glucose test results for the previous six month period and provide copies to their employer, the examining physician and the Oregon Department of Education, upon request;

(D) Carry a source of readily absorbable, fast-acting glucose while on duty;

(E) Undergo and submit physician-signed results of a glycated hemoglobin (HbA1c) test indicating glucose levels of more than 5.9 percent and less than 9.6 percent to their employer for transmission to the Oregon Department of Education every six months;

(F) Undergo and submit the results of an annual examination to detect any peripheral neuropathy, unstable diabetic retinopathy or clinically significant eye disease that prevents the individual from meeting current vision standards included in this rule, or circulatory insufficiency;

(G) Provide a signed statement by the examining physician indicating that within the past three years the driver has completed instruction to address diabetes management and driving safety, to identify signs and symptoms of hypoglycemia and hyperglycemia, and what procedures must be followed if complications from diabetes arise;

(H) Submit all required Oregon Department of Education forms signed by the appropriate medical professionals within the prescribed timelines;

(j) Does not have severe hypertension (grade 3 retinopathy); or

(k) Does not have an established medical history or clinical diagnosis of epilepsy or any other condition likely to cause loss of consciousness or any loss of ability to control a motor vehicle.

(6) A driver is no longer physically qualified to operate a school bus and shall be immediately removed from duty for the following:

(a) Diabetic person:

(A) Results of an HbA1c test indicating values less than 6.0 or greater than 9.5 unless accompanied by the required medical opinion that the event was incidental and not an indication of failure to control glucose levels;

(B) Results of self-monitoring indicate glucose levels less than 100 mg/dl or greater than 300 mg/dl, until self-monitoring indicates compliance with specifications; proofread

(C) Experiencing a loss of consciousness or control relating to a diabetic condition; or

(D) Failing to maintain or falsifying the required medical records.

(b) A new diagnosis of diabetes requiring insulin until all requirements under subsection (5)(i) have been met;

(c) Notwithstanding subsections (a) and (b) of this section, if the driver has a serious illness, injury, or change in physical or mental condition and no longer meets the physical requirements outlined in this rule, then re-examination and medical approval are required before the driver may resume driving a school bus.

(7) Notwithstanding any other section of this rule, Type 20 CDL drivers and SPAB drivers shall meet the FMCSA physical requirements found in 49 CFR part 391 and shall carry a medical certificate to indicate compliance.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12; ODE 40-2014, f. & cert. ef. 9-3-14

581-053-0050

Driving and Criminal Records

(1) The Oregon Department of Education shall review the driving record of each applicant for certification or approval as a school bus or school activity driver. Applicants who have held a

driver license in a state other than Oregon anytime during the preceding three-year period may be required to furnish a copy of the driving record from each state in which the applicant has held a driver license to ODE. If the driver currently holds a driver license from another state, the driving record shall be printed no more than 30 days prior to the date received by ODE.

(2) ODE shall review the criminal record of each applicant for certification or approval as a school bus or school activity driver.

(3) An applicant does not qualify as a school bus or school activity driver if the applicant:

(a) Has ever been convicted of a crime listed in ORS 342.143. (Forever Crime)

(b) Has ever been convicted of a crime involving violence, threat of violence or theft. This shall not apply if the applicant or driver has been free from custody, probation and parole for the preceding three-year period from date of application.

(c) Has ever been convicted of a crime involving activity in drugs or alcoholic beverages. This shall not apply if the applicant or driver has been free from custody, probation, and parole for the preceding three-year period from date of application.

(d) Has had his or her driving privileges suspended by any state, within the preceding three-year period, for a cause involving the unsafe operation of a motor vehicle or because of driving record.

(e) Has been convicted within the preceding three-year period of:

(A) Driving under the influence of intoxicants, as defined in ORS 813.010;

(B) Reckless driving, as defined in ORS 811.140;

(C) Fleeing or attempting to elude a police officer, as defined in under ORS 811.540;

(D) Failure to perform the duties of a driver involved in an accident or collision which results in injury or death of any person, as described in ORS 811.705; or

(E) An equivalent out of state conviction for any of the above.

(f) Has had his or her driving privileges revoked or suspended as a habitual offender under ORS 809.600. This shall not apply if applicant or driver has had his or her driving privileges restored under ORS 809.660 for the preceding three years;

(g) Has a driving record for the preceding three-year period that has an accumulation of 31 or more points based upon the following point system:

(A) Each chargeable accident shall have a value of 10 points. Applicable traffic code and preventability guidelines published by the National Safety Council and the Pupil Transportation Safety Institute may be used to determine if an accident is chargeable; and

(B) Each of the traffic violations on Table 1 shall have a value of 10 points.

(C) One point shall be subtracted from the total number of points for each full month, since the last chargeable accident or conviction, to the time of driving record check; however, all subtracted points will be reinstated if any additional qualifying convictions or chargeable accidents occur within the three-year calculation period.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12; ODE 40-2014, f. & cert. ef. 9-3-14

581-053-0060

Refusals, Suspensions, Revocations and Invalid Certificates

(1) The Oregon Department of Education shall refuse to issue a certificate or permit to an applicant who does not meet the qualifications for the certificate or permit being sought. Incomplete applications shall be rejected.

(2) ODE may suspend or revoke a certificate or permit based on the violations and sanctions listed on **Table 1** [Table not included. See ED. NOTE.]. If the certificate holder has been suspended within the prior three- year period, the current offense may be considered a second or subsequent offense.

(3) If the conditions of reinstatement are not met for a suspended certificate or permit at the end of the suspension period, the certificate or permit shall be immediately revoked.

(4) A certificate or permit holder shall surrender any suspended or revoked certificate or permit to ODE.

(5) A certificate or permit holder whose certificate or permit was suspended or revoked, or application for a certificate or permit was refused, may request a hearing. Hearings conducted under this section on appeal for refusal, suspension or revocation of a certificate or permit shall be conducted pursuant to ORS chapter 183.

(6) ODE may only reinstate a certificate or permit if all conditions of the suspension or revocation have been met, and the person otherwise qualifies for the certificate or permit being reinstated.

(7) Notwithstanding section (5) of this rule, no hearing will be held when a certificate or permit becomes invalid because of the provisions of the rule that govern the certificate or permit.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12; ODE 40-2014, f. & cert. ef. 9-3-14

581-053-0070

School Bus and School Activity Vehicle Acquisition, Maintenance and Inspection

(1) Upon entry into Oregon, all school buses and school activity vehicles shall conform to the Oregon minimum standards currently in force as they apply to each vehicle and to the Federal Motor Vehicle Safety Standards in place at time of manufacture, prior to transporting students.

(2) Transportation entities shall not transport students in any school bus or school activity vehicle until:

(a) The school bus or school activity vehicle license approval form has been received by ODE certifying that the vehicle meets all applicable minimum standards; and

(b) The transportation entity has received approval from ODE.

(3) Any additions of vehicle equipment or alterations in the vehicle construction that are not provided for in the applicable minimum standards for Oregon school buses or school activity vehicles are prohibited without first receiving prior approval from ODE.

(4) School buses and school activity vehicles used for transportation of students with disabilities or for specific educational purposes that do not meet all current Oregon Minimum Standards for School Buses must be approved by ODE.

(5) Appeal for Variance:

(a) A transportation entity or contractor desiring to purchase a pupil transporting vehicle that cannot meet all required minimum construction standards for school buses or school activity vehicles as applicable in Oregon must forward an "Appeal for Variance" request to the State Superintendent of Public Instruction. This appeal must be made by the highest ranking official with the local operation and contain at least the following information:

(A) The need for such a vehicle;

(B) Why a standard school bus or school activity vehicle will not suffice;

(C) List of items which will not meet applicable standards; and

(D) Passenger capacity of vehicle.

(b) This variance provision is designed for unique changes or alterations necessary to accommodate special equipment or conditions.

(6) School buses and school activity vehicles shall be maintained in safe operating condition and shall meet or exceed the minimum standards in effect at the time of purchase, as well as any subsequently adopted standards that are applicable to the vehicle.

(7) The transportation entity shall keep vehicle maintenance records for each vehicle used to transport students. These records shall be available to ODE upon request. Records shall be kept for every service, adjustment or repair of the following items and shall include date and mileage:

(a) Chassis lubrications;

(b) Engine oil and filter changes;

(c) Major engine tune-ups and repairs;

(d) All adjustment, service and repair of brake system;

(e) All adjustment, service and repair of steering mechanism and other related parts;

(f) Tires; and

(g) Drive train components.

(8) Notwithstanding OAR 581-053-0120, under the direction of a certified inspector, repair items listed below may be done by uncertified personnel:

(a) Belts and hoses;

(b) Body and paint repair;

(c) Camera systems;

(d) Electrical systems;

(e) Exhaust systems;

(f) Fluid changes;

(g) Glass repair;

(h) Lights;

(i) Seat repairs;

(j) Tires;

(k) Tune-ups.

(9) Transportation entities or contractors planning to rebuild a school bus or school activity vehicle that has been totaled shall first secure written approval from ODE. (This does not apply to repair of damage.) All rebuilt school buses must meet current Oregon Minimum Standards for School Buses and applicable U.S. Department of Transportation regulations in effect at the time of approval.

(10) The transportation entity shall ensure the following is inspected daily:

(a) Windshield and wipers;

(b) All lights;

(c) Service door;

(d) Tires and wheel lug nuts;

(e) Battery, belts, oil and coolant level;

(f) Horns;

(g) Brakes;

(h) Steering;

(i) Exhaust system;

(j) See that lights, windshield, mirrors, and warning sign is clean;

(k) Emergency equipment;

(l) Emergency exits and audible warning devices;

(m) Suspension;

(n) Seats; and

(o) Gauges

(11) Transporting entities shall have all vehicles used in transporting pupils inspected annually by inspectors holding current school bus inspection certification, and certify to ODE that all deficiencies have been corrected before September 1 each year. ODE shall furnish forms for the inspection and for the certification reports.

(12) ODE personnel may inspect school buses and school activity vehicles at any time or upon request of transportation entities. ODE may investigate accidents and examine school buses and school activity vehicles involved in accidents as ODE considers necessary.

(13) Upon inspection of school buses or school activity vehicles by ODE personnel, the vehicle owner shall be notified in writing of deficiencies. Such deficiencies shall be corrected within 30 days. If the vehicle owner is unable to correct the deficiency within 30 days, the transportation entity may submit a written request for an extension of time to ODE. Such request may be granted, provided the deficiency does not affect the safety of students or public, and is not contrary to Oregon Motor Vehicle Laws.

(14) ODE personnel may issue a written order that a vehicle is unsafe and shall not be used to transport students when there is reason to believe that a deficiency is such that continued operation of the vehicle may jeopardize the safety of students or public.

(15) The transportation entity or vehicle owner shall notify ODE in writing that the deficiency is corrected before transporting

students in a vehicle that has been declared unsafe in section (14) of this rule.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

581-053-0100

Non-Driving Related Certificates — Generally

(1) To provide for the proper training of school bus drivers, proper vehicle inspection, and proper application of the rules, ODE has created various non-driving related certificates as outlined in OAR 581-053-0100 through 581-053-0199.

(2) Non-driving related certificates may require participation in a specialized workshop developed by ODE. A schedule of workshops shall be published by January 31 of each year.

(3) To be a candidate for a workshop, an individual shall:

(a) Submit a completed application form by the application deadline; and

(b) Meet all requirements listed on the application.

(4) ODE may limit the size of workshops. If workshop sizes are limited, candidates may be accepted based on, but not limited to:

(a) Qualifications;

(b) Experience;

(c) Location need for a certified person; and

(d) Other certifications held by the candidate.

(5) ODE may accept a candidate who has filed an application under section (3) of this rule who does not meet the minimum qualifications. Candidates accepted into the workshop under this provision shall not receive certification until all minimum qualifications are met.

(6) A Third Party Examiner Recertification Workshop shall be held in conjunction with examiner certificate expiration, or as otherwise required by DMV.

(7) Recertification may be required for the holders of other certificates as deemed necessary by ODE. Certificate holders will be notified in writing how to recertify and the date the current certificate will become invalid due to failure to recertify.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

581-053-0110

Supervisor Certificate

(1) The Oregon Department of Education shall issue a Supervisor Certificate to an individual who has completed the supervisor training workshop.

(2) Part of the workshop requirements may be waived for Supervisor Certificate applicants who hold one or more of the following certificates:

(a) Annual Vehicle Inspection Certificate;

(b) Behind-the-Wheel Instructor Certificate;

(c) Third Party Examiner Certificate;

(d) Core & Advanced Instructor Certificate;

(e) Core Refresher Instructor Certificate; or

(f) Transporting Students with Special Needs Instructor Certificate.

(3) Portions of the workshop waived in section (2) of this rule shall relate directly to the certificate(s) currently held by the applicant.

(4) The Supervisor Certificate allows an individual to sign an ODE form that requires a supervisor signature.

(5) Notwithstanding section (4) of this rule, ODE may grant an exception to an individual who:

(a) Has been hired between scheduled workshops;

(b) Submits a letter from the school board or their designee outlining the need for the exception; and

(c) Submits an application, or letter of intent, to attend the next scheduled workshop for supervisors.

(6) Supervisor exceptions issued under section (5) of this rule shall expire on the date of the next scheduled workshop for supervisors and shall not be renewed except due to extreme circumstances at the discretion of the Director of Pupil Transportation.

(7) The provisions of this rule become effective on July 1, 2015.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

581-053-0120

Vehicle Inspector Certificate

(1) Any person performing an annual school bus or school activity vehicle inspection and signing the Annual Vehicle Inspection and Maintenance Report form 581-2255-M, or performing repairs on a school bus or school activity vehicle, must successfully complete a test administered by the Oregon Department of Education or designee and be certified over the contents of the School Bus Maintenance and Inspection Manual for Oregon School Buses, current edition.

(2) ODE may require re-certification when the School Bus Maintenance and Inspection Manual is revised.

(3) Vehicle inspection certificate may be suspended or revoked under the provisions of OAR 581-053-0060.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120; ODE

19-2012, f. & cert. ef. 6-14-12

581-053-0130

Assistant Trainer Certificate

(1) The Oregon Department of Education may issue an Assistant Trainer Certificate to an individual who has:

(a) One year experience operating a school bus;

(b) A current School Bus Driver's Certificate;

(c) Submitted an application that includes information regarding the behind-the-wheel trainer(s) that the applicant will be working with; and

(d) Submitted a letter of recommendation from their supervisor.

(2) Assistant trainers shall work under the direction of a certified behind-the-wheel trainer.

(3) The Assistant Trainer Certificate authorizes an individual to:

(a) Work with school bus driver applicants on portions of the behind-the-wheel training that have already been taught and documented by a certified behind-the-wheel trainer; and

(b) Train applicants to drive a type 20 vehicle and sign off on the type 20 performance check list and application in accordance with OAR 581-053-0420 only if the applicant has a valid driver license or CDL. If the type 20 vehicle is designed to hold 15 or more passengers, a CDL or CLP with a medical certificate is required.

(4) Assistant trainers shall not sign off on any item on the performance checklist for new school bus drivers except for the assistant trainer line on the last page.

(5) The assistant trainer certificate shall be invalid if:

(a) The assistant trainer no longer has a valid school bus certificate; or

(b) The behind-the-wheel trainer(s) is (are) no longer available to provide direction to the assistant trainer.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12; ODE 40-2014, f. & cert. ef. 9-3-14

581-053-0135

Reference Point Trainer Certificate

(1) The Oregon Department of Education may issue a Reference Point Trainer Certificate to an individual who has:

(a) A valid Assistant Trainer Certificate;

(b) Submitted an application; and

(c) Submitted a completed advanced reference point performance checklist indicating that the applicant has mastered all parts of the Advanced Reference Point Manual, signed by a behind-the-wheel trainer.

(2) The Reference Point Trainer Certificate authorizes an individual to

(a) Teach the material out of the Advanced Reference Point Manual, published by ODE, to school bus drivers who already possess a valid School Bus Driver's Permit or Certificate; and

(b) Sign-off mastery of reference points on the advanced reference point performance checklist for the driver's file and for ODE training credit.

(3) The Reference Point Trainer Certificate shall be invalid if the individual does not have a valid Assistant Trainer Certificate.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

581-053-0140

Behind-the-Wheel Trainer Certificate

(1) The Oregon Department of Education shall issue a Behind-the-Wheel Trainer Certificate to an individual who has:

(a) Two years' experience operating commercial motor vehicles;

(b) One year experience operating a school bus;

(c) Six months experience as a certified assistant trainer, except that:

(A) This requirement may be waived by the ODE Director of Pupil Transportation. Request for exception from this requirement will be decided on an individual basis.

(B) Trainers who have attended the Behind-the-Wheel Instructor Workshop prior to July 1, 2012 are exempt from this provision.

(d) A current School Bus Driver's Certificate;

(e) Been recommended by a transportation entity or contractor; and

(f) Either:

(A) Completed the Behind-the-Wheel Instructor Workshop with a score of at least 80%; or

(B) Met all conditions of probation after being issued a Behind-the-Wheel Probationary Trainer Certificate in OAR 581-053-0145 prior to the expiration date of the probationary certificate.

(2) The Behind-the-Wheel Training Certificate authorizes an individual to:

(a) Train applicants for a School Bus Driver's Permit or Certificate in accordance with OAR 581-053-0220, only if the applicant has:

(A) A valid CDL with proper endorsements, or a valid CLP and documentation that the individual has passed the proper written endorsement exams at DMV; and

(B) A valid medical certificate.

(b) Train applicants for a Type 20 Certificate in accordance with OAR 581-053-0420, only if the applicant has a valid driver license or CDL. If the type 20 vehicle is designed to hold 15 or more passengers, a CDL or CLP with a medical certificate is required.

(c) Test applicants for a School Bus Driver's Permit or Certificate who have:

(A) Met all requirements of subsection (a) of this section;

(B) A School Bus Application Form signed by the a medical examiner, the applicant, and the behind-the-wheel trainer that conducted the training; and

(C) A completed school bus performance checklist on file that is initialed and signed by the applicant and the behind-the-wheel trainer that conducted the training.

(d) Test applicants for a Type 20 Certificate who have:

(A) A valid driver's license or CDL. If the type 20 vehicle is designed to hold 15 or more passengers, a CDL with a medical certificate is required; and

(B) A completed type 20 performance checklist on file that is initialed and signed by the applicant and the behind-the-wheel or assistant trainer that conducted the training.

(e) Teach the material out of the Advanced Reference Point Manual, published by ODE, to school bus drivers who already possess a valid School Bus Driver's Permit or Certificate and sign-off mastery of the reference points on the Advanced Reference Point Performance Checklist for the driver's file and ODE training credit.

(3) The Behind-the-Wheel Training Certificate shall become invalid if the certificate holder:

(a) Does not have a valid School Bus Certificate; or

(b) Does not recertify when required by OAR 581-053-0100.

(4) Behind-the-wheel trainers shall not conduct skills tests for school bus driver applicants they have trained unless:

(a) The applicant has taken a CDL skills test at DMV that resulted in the issuance of a school bus endorsement; or

(b) The behind-the-wheel trainer has written permission from ODE.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12; ODE 40-2014, f. & cert. ef. 9-3-14

581-053-0145

Behind-the-Wheel Probationary Trainer Certificate

(1) The Oregon Department of Education may issue a Behind-the-Wheel Probationary Trainer Certificate to an individual who has:

(a) Two years experience operating commercial motor vehicles;

(b) One year experience operating a school bus within the last 24 months;

(c) Six months experience as an assistant trainer, except that: this requirement may be waived by the ODE Director of Pupil Transportation. Request for exception from this requirement will be decided on an individual basis.

(d) A current School Bus Driver's Certificate;

(e) Been recommended by a transportation entity or contractor; and

(f) Completed the Behind-the-Wheel Training Workshop with a score of at least 75%.

(2) The Behind-the-Wheel Probationary Trainer Certificate shall expire 120 days from time of issuance. The certificate shall become immediately invalid if the certificate holder:

(a) Does not have a valid School Bus Certificate; or

(b) Does not recertify when required by OAR 581-053-0100.

(3) ODE may grant one 60 day extension of a probationary certificate.

(4) ODE may convert the Behind-the-Wheel Probationary Trainer Certificate to a Behind-the-Wheel Trainer Certificate once the certificate holder:

(a) Trains two school bus driver applicants in accordance with the rules;

(b) Submits copies of completed performance checklists for each driver;

(c) Ensures that each driver is tested by a third party examiner sponsored by ODE. Each test shall be conducted by a different examiner;

(d) Submits a copy of all tests administered to the school bus driver applicants trained in accordance with this section, including test failures;

(e) Submits documentation of additional training if a school bus driver applicant fails a School Bus Skills Test; and

(f) Meets any additional requirements deemed appropriate by ODE.

(5) The Behind-the-Wheel Probationary Trainer Certificate may be suspended or revoked for the same reasons that the Behind-the-Wheel Trainer Certificate may be suspended or revoked.

(6) A probationary trainer shall not conduct skills tests of school bus or type 20 drivers as outlined in OAR 581-053-0140 Behind-the-Wheel Trainer Certificate.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

581-053-0150

Third Party Examiner Training and Support

DMV issues Third Party Examiner Certificates to individuals who are supported by the Oregon Department of Education. OAR chapter 735, division 60 mandates ODE, as a Third Party Tester, to ensure that examiners supported by ODE meet all of the rules in OAR chapter 735, division 60. The purpose of this rule (581-053-

0150) is to layout how an individual gains and maintains ODE support to be a Third Party Examiner. No part of this rule supersedes DMVs ability to sanction examiners in accordance with OAR chapter 735, division 60.

(1) ODE may support an individual who is entering the program for the first time and has:

- (a) Three years experience operating commercial motor vehicles;
- (b) A current School Bus Driver's Certificate;
- (c) One year experience training school bus drivers;
- (d) A current Behind-the-Wheel Instructor Certificate;
- (e) Met all requirements listed in OAR Chapter 735, Division 60;

(f) Been recommended by a school bus operation that will house the examiner's records;

(g) Completed the Third Party Examiner Workshop with a score of at least 80%;

(h) Submitted a test route that is approved by ODE; and

(i) Submitted an Application for Third Party Examiner Certificate to ODE.

(2) All Third Party Certificates expire in accordance with OAR Chapter 735, Division 60. ODE may continue support for an active third party examiner who has:

(a) A current school bus certificate;

(b) A current Behind-the-Wheel Instructor Certificate;

(c) Complete a Third Party Recertification Workshop with a score of at least 80% as required in OAR 581-053-0100;

(d) Been recommended by a school bus operation that will house the examiner's records; and

(e) Met all requirements of OAR Chapter 735, Division 60.

(3) A third party examiner sponsored by ODE shall not conduct tests anytime they:

(a) Do not have a valid School Bus Driver's Certificate.

(b) Do not have a valid Behind-the-Wheel Instructor Certificate.

(c) Do not have a sponsor location on file with ODE.

(4) ODE may withdraw sponsorship of any active third party examiner for any violation of the rules that govern testing and training of school bus and school activity vehicle drivers.

(5) Inactive examiners:

(a) A third party examiner may become inactive by submitting a written request to ODE to become inactive. An inactive examiner shall:

(A) Complete all Third Party Recertification Training as required by ODE;

(B) Not conduct tests for new or upgraded commercial driver's licenses;

(C) Not sign or issue certificates of test completion.

(b) Failure to comply with the section (5) (a) of this rule may result in the examiner's support status being changed from inactive to surrendered.

(c) An inactive examiner may become active again by submitting an Application for Third Party Examiner Certificate to ODE for sponsorship. Once reactivated an examiner shall:

(A) Administer a third party qualifying School Bus Skills Test within 12 months; and

(B) Remain active for two years.

(6) A third party examiner may surrender their Third Party Examiner Certificate by submitting a written request to be removed from the program. Examiners with surrendered status shall meet all requirements listed in section (1) of this rule to re-enter the program.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

581-053-0160

Core Instructor Certificate

(1) The Oregon Department of Education shall issue a Core Instructor Certificate to an individual who has completed the Core and Advanced Instructor Workshop with a score of 80% or greater.

(2) The Core Instructor Certificate authorizes an individual to teach the following classroom curriculum, from a current manual published by ODE:

(a) Core, an 8 hour program for new school bus drivers. Core consists of four parts:

(A) Section 1 is a one hour course that covers qualifications and bus construction standards.

(B) Section 2 is a two hour course that covers responsibilities and regulations.

(C) Section 3 is a two and a half hour course that covers pupil management.

(D) Section 4 is a two and a half hour course that covers emergency and accident procedures.

(b) Advanced unit A, a two hour course that covers laws and liability.

(c) Advanced unit B, a three hour course that covers special driving conditions and techniques.

(d) Advanced unit C, a two hour course that covers CDL complying vehicle inspections.

(e) Advanced unit D, a two hour course that covers field trips.

(f) Advanced unit E, a two hour course that covers brakes.

(g) Advanced unit F, a two hour course that covers power train.

(3) Notwithstanding section (2) of this rule, a certified core instructor may conduct classroom instruction that has been approved by ODE under OAR 581-053-0225.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

581-053-0170

Core Refresher Instructor Certificate

(1) The Oregon Department of Education shall issue a Core Refresher Instructor Certificate to an individual who has:

(a) A valid Core Instructor Certificate; and

(b) Completed the Core Refresher Instructor Workshop with a score of 80% or greater.

(2) The Core Refresher Instructor Certificate authorizes an individual to teach the four hour Core Refresher classroom curriculum, from a current manual published by ODE.

(3) The Core Refresher Instructor Certificate is invalid at anytime that the certificate holder does not have a valid Core Instructor Certificate.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

581-053-0180

Transporting Students with Special Needs Instructor Certificate

(1) The Oregon Department of Education shall issue a Transporting Students with Special Needs Instructor Certificate to an individual who has:

(a) A valid Core Instructor Certificate; and

(b) Completed the Transporting Students with Special Needs Instructor Workshop with a score of 80% or greater.

(2) The Transporting Students with Special Needs Instructor Certificate authorizes an individual to teach the eight hour Transporting Students with Special Needs curriculum, from a current manual published by ODE. This curriculum consists of five sections.

(a) Section 1 is a one and a half hour course that covers familiarization.

(b) Section 2 is a one hour course that covers terminology and laws.

(c) Section 3 is a two hour course that covers pupil management.

(d) Section 4 is a two hour course that covers lifts and securements.

(e) Section 5 is a one and a half hour course that covers bus emergencies.

(3) The Transporting Students with Special Needs Instructor Certificate is invalid anytime the certificate holder does not have a valid Core Instructor Certificate.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120
 Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120
 Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

581-053-0210

Administrative Requirements Pertaining to School Buses

(1) Each school board shall adopt and implement a written transportation policy regarding student conduct and discipline that conforms to ORS 339.250 Duty of student to comply with rules; discipline, suspension, expulsion, removal and counseling; written information on alternative programs required, ORS 343.533 Transportation service to preschool children with disabilities, OAR 581-021-0065 Suspension, 581-021-0070 Expulsion, 581-015-2400–581-015-2445 Special Education: Discipline, and the Individuals with Disabilities Education Act, 20 USC 1400 et seq.

(2) Safety instruction:

(a) All regularly transported pupils shall receive the following instruction at least once within the first six weeks of the first half of each school year and once within the first six weeks of the second half of each school year:

(A) Safe school bus riding procedures, including but not limited to loading, unloading and crossing;

(B) Use of emergency exits; and

(C) Planned and orderly evacuation of the school bus in case of emergency, including participation in actual evacuation drills.

(b) All pupils who are not regularly transported shall receive the following instruction at least once in the first half of each school year:

(A) Safe school bus riding procedures, including but not limited to loading, unloading and crossing; and

(B) Use of emergency exits.

(c) Records listing safety instruction course content and dates of training shall be maintained locally.

(3) Transportation entities or contractors selling a used school bus shall be responsible for removing all markings that would identify it as a school bus, including the bus safety lights and school bus stop arm. If the school bus is sold for the purpose of:

(a) Transporting school children to and from a school, the school bus identifying markings, bus safety lights, and school bus stop arm need not be removed; or

(b) Transporting workers, the bus safety lights need not be removed.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

581-053-0220

School Bus Driver's Permit and Certificate

(1) No person shall transport pupils in a school bus or a vehicle that has a capacity of more than 20 passengers and not subject to regulations promulgated by the Oregon Department of Transportation or U.S. Department of Transportation, unless such person has a valid School Bus Driver's Permit or Certificate or is a temporary driver, approved by ODE. No person shall transport pupils in a school bus of any size or type without first receiving documented instruction in its safe operation.

(2) ODE shall issue a School Bus Driver's Permit to an applicant who:

(a) Possess a valid CDL with proper endorsements for the vehicle being driven;

(b) Passes a physical examination as required in OAR 581-053-0040 Physical Examinations within six months prior to application;

(c) Passes a behind-the-wheel test administered by an ODE certified behind-the-wheel trainer within one year prior to application;

(d) Is not disqualified based on driving or criminal record as required in OAR 581-053-0050 Driving and Criminal Records;

(e) Submits an application for School Bus Driver's Permit or Certificate signed by the local supervisor certifying:

(A) The employer will:

(i) Immediately notify ODE if the employer learns of any changes to the applicant's driving and criminal records that could

disqualify them from driving under OAR 581-053-0050 Driving and Criminal Records;

(ii) Be in compliance with 49 CFR Part 382 FMCSA Controlled Substances and Alcohol Use and Testing; and

(iii) Ensure the driver complies with all applicable OARs.

(B) The applicant demonstrates the knowledge and ability to perform the duties of a school bus driver.

(f) Completes approved behind-the-wheel training.

(A) Training shall be for a minimum of 15 hours in actual operation of the vehicle(s) that the applicant will be expected to drive, except training may be to a minimum of four hours if:

(i) The applicant has regularly driven a school bus for a period of six months within the last three years;

(ii) The school bus was of a size and type similar to that which the applicant will be expected to drive; and

(iii) The employer has documentation from the applicant's previous employer regarding previous experience.

(B) Hours counted in paragraph (A) of this subsection shall be spent with a certified Behind-the-Wheel Trainer, or a certified Assistant Trainer working under the direction of a Behind-the-Wheel Trainer, as outlined in OAR 581-053-0130 Assistant Trainer Certificate.

(g) Reads and speak the English language sufficiently to converse with the general public, understand highway signs and traffic signals in the English language and respond to official inquiries and make entries on reports and records; and

(h) Complies with 49 CFR Part 382, FMCSA Controlled Substances and Alcohol Use and Testing.

(i) Has not held a valid School Bus Driver's Permit or Certificate within the last year.

(3) ODE shall issue an original School Bus Driver's Certificate to applicants who:

(a) Possess a valid CDL with proper endorsements for the vehicle being driven;

(b) Pass a physical examination as required in OAR 581-053-0040 within six months prior to application;

(c) Pass a behind-the-wheel test administered by an ODE certified behind-the-wheel trainer within one year prior to application;

(d) Are not disqualified based on driving or criminal record as required in OAR 581-053-0050;

(e) Submit an application for School Bus Driver's Permit or Certificate signed by the local supervisor certifying that:

(A) The employer will:

(i) Immediately notify ODE if the employer learns of any changes to the applicant's driving and criminal records that could disqualify them from driving under OAR 581-053-0050;

(ii) Be in compliance with FMCSA Controlled Substances and Alcohol Use and Testing regulations at 49 CFR 382; and

(iii) Ensure that the driver complies with all applicable OARs.

(B) The applicant:

(i) Demonstrates the knowledge and ability to perform the duties of a school bus driver;

(ii) Has completed the Core Course for school bus drivers taught by a certified Core instructor within the last four years; and

(iii) Is trained in first aid;

(f) Complete approved behind-the-wheel training.

(A) Training shall be for a minimum of 15 hours in actual operation of the vehicle(s) that the applicant will be expected to drive, except the training shall be for a minimum of four hours if:

(i) The applicant has regularly driven a school bus for a period of six months within the last three years;

(ii) The school bus was of a size and type similar to that which the applicant will be expected to drive; and

(iii) The employer has documentation from the applicant's previous employer regarding previous experience.

(B) Hours counted in paragraph (A) of this subsection shall be spent with a certified Behind-the-Wheel Trainer, or a certified Assistant Trainer working under the direction of a Behind-the-Wheel Trainer, as outlined in OAR 581-053-0130 Assistant Trainer Certificate;

(g) Read and speak the English language sufficiently to converse with the general public, understand highway signs and traffic signals in the English language, and respond to official inquiries and make entries on reports and records; and

(h) Comply with 49 CFR Part 382 FMCSA Controlled Substances and Alcohol Use and Testing regulations.

(i) Notwithstanding any other provision of this section, ODE shall issue a School Bus Driver's Certificate to an applicant who holds a valid School Bus Driver's Permit issued under section (2) of this rule, and who submits a School Bus Driver's Permit Conversion Card signed by a local supervisor certifying that the applicant has:

(A) Completed the Core Course for school bus drivers taught by a certified Core Instructor within the last four years; and

(B) Is trained in first aid.

(4) ODE shall renew a School Bus Driver's Certificate for an applicant who:

(a) Possesses or has possessed within the last 12 month period a valid School Bus Driver's Certificate;

(b) Possesses a valid CDL with proper endorsements for the type of vehicle being driven;

(c) Passes a physical examination as required in OAR 581-053-0040 Physical Examinations within six months prior to application;

(d) Is not disqualified based on driving or criminal record as required in OAR 581-053-0050 Driving and Criminal Records;

(e) Submits an application for School Bus Driver's Permit or Certificate signed by a local supervisor certifying:

(A) The employer will:

(i) Immediately notify ODE if the employer learns of any changes to the applicant's driving and criminal records that could disqualify them from driving under OAR 581-053-0050;

(ii) Be in compliance with 49 CFR Part 382 FMCSA Controlled Substances and Alcohol Use and Testing; and

(iii) Ensure that the driver complies with all applicable OARs.

(B) The applicant:

(i) Demonstrates the knowledge and ability to perform the duties of a school bus driver;

(ii) Has completed a Core or Core Refresher Course for school bus drivers, taught by a Core or Core Refresher instructor within the last four years;

(iii) Is trained in first aid; and

(iv) Has completed training averaging at least eight hours annually, while certified as a school bus driver during the preceding four-year period. Training must meet the requirements in OAR 581-053-0225 Approved Training for School Bus Drivers and be received by ODE to qualify.

(v) Complies with 49 CFR Part 382 FMCSA Controlled Substances and Alcohol Use and Testing.

(f) Additional tests may be required by ODE if reasonable doubt of driver competency exists or as required by rule.

(5) ODE may approve a person who does not currently possess a valid School Bus Driver's Certificate or Permit as a temporary driver. If approved, a driver shall not drive more than 10 days as a temporary driver during the approval period. ODE shall only approve a temporary driver if the driver:

(a) Submits a Request for Approval of a Temporary Driver form, signed by a supervisor;

(b) Is judged competent by the local supervisor;

(c) Possesses a valid CDL with proper endorsements for the vehicle being driven;

(d) Possesses a valid medical certificate;

(e) Has passed a driving and criminal records check as required in OAR 581-053-0050 Driving and Criminal Records; and

(f) Meets all other requirements listed on the Request for Approval of a Temporary Driver form.

(6) Expiration:

(a) School Bus Driver's permits expire 120 days after issuance, or on the date of medical certificate expiration, whichever occurs first. Permits may not be renewed. The holder of a valid permit

may apply for a School Bus Driver's Certificate, provided that all requirements have been met for such certificate.

(b) School Bus Drivers' Certificates shall expire two years from the date of the physical examination required in OAR 581-053-0040, except:

(A) Certificates for applicants 55 years of age and older shall expire one year from the date of physical examination required in OAR 581-053-0040;

(B) Certificates for applicants who are diabetic shall expire one year from the date of the physical examination required in OAR 581-053-0040; and

(C) Certificates for applicants who have had a physical examination as required in OAR 581-053-0040 and have been issued a medical certificate with an expiration date that is prior to the expiration dates outlined in this subsection shall expire on the date the medical certificate expires.

(c) An approval of a temporary driver expires on July 1, following approval.

(7) Age Restrictions: To obtain an original School Bus Driver's Certificate or Permit, or to renew a School Bus Driver's Certificate following a person's 70th birthday, an applicant must comply with all certification requirements and successfully complete an ODE behind-the-wheel test no more than 30 days before the date of application. The test must be administered by a behind-the-wheel trainer. A copy of the test shall be attached to the application form.

(8) A driver shall notify ODE, in writing, of any change in the driver's name, address or employer within 30 days of the change. A duplicate certificate will be issued if necessary.

(9) A School Bus Driver's Permit or Certificate shall be invalid anytime that:

(a) A transportation entity or contractor notifies ODE that the driver is no longer active;

(b) The driver is no longer trained in first aid (School Bus Certificate Only);

(c) The driver no longer meets the physical requirements outlined in OAR 581-053-0040; or

(d) The driver does not maintain or falsifies records required of a diabetic driver outlined in OAR 581-053-0040.

(10) A School Bus Driver's Permit or Certificate shall be valid again if:

(a) The permit or certificate was invalid under subsection (9)(a) of this rule when a transportation entity or contractor notifies ODE that they are ensuring the driver's compliance with these OARs.

(b) The certificate was invalid under subsection (9)(b) of this rule when the driver is trained in first aid.

(c) The permit or certificate was invalid under subsection (9)(c) of this rule when the driver meets the physical requirements outlined in OAR 581-053-0040.

(d) The permit or certificate was invalid under subsection (9)(d) of this rule when the driver is able to produce two weeks of medical records demonstrating compliance with the physical requirements for diabetic drivers outlined in 581-053-0040.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12; ODE 40-2014, f. & cert. ef. 9-3-14

581-053-0225

Approved Training for School Bus Drivers

(1) Training taught from material published by the Oregon Department of Education shall count towards a school bus driver's average training hours when taught by a certified instructor within the scope of their certificate.

(2) Training taught by a certified first aid instructor that results in the issuance of a first aid card demonstrating that a driver is trained in first aid. Proper certification of a first aid instructor is determined by the organization that issues a first aid card to the driver.

(3) Training taught from material not published by ODE shall count towards a school bus driver's required training hours if:

(a) The transportation entity has an ODE approval letter on file; and

(b) The training was conducted in accordance with the letter and applicable OARs.

(4) ODE may approve training for inclusion in a school bus driver's required training hours if the transportation entity:

(a) Submits a letter to ODE requesting approval of the training that includes a list of instructors who will teach the material. If the instructors are not certified through ODE, then the letter shall include background information and supporting documentation to establish the instructor as an expert in the field being taught; and

(b) A copy of the presentation material. This may include, but is not limited to, hand outs, outlines, and multimedia presentations.

(5) If ODE approves training that has been properly submitted as required by section (3) of this rule, then ODE shall issue a letter that indicates:

(a) The amount of time that will be accredited towards a school bus driver's required training hours for attending the training;

(b) The class and unit that the training will be assigned for record keeping purposes;

(c) The instructor(s) that may teach the material; and

(d) The expiration date for the approval shall be four years after the approval date.

(6) Transportation entities may request a renewal of an expired approval letter or request that additional instructors be added to an approval letter by submitting:

(a) A letter certifying that the material being taught has not changed since the original approval letter was issued by ODE

(b) A list of instructors that will teach the material; and

(c) A copy of the original letter issued by ODE.

(d) Letters issued under this section will contain the same information as a letter issued in section (4) of this rule.

(7) Approval letters issued before July 1, 2012 that do not have an expiration date shall expire on July 1, 2013 or four years after the issue date of the letter, whichever is later.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12; ODE 40-2014, f. & cert. ef. 9-3-14

581-053-0230

Approved Training for School Bus Drivers

(1) The driver shall report as soon as possible to the proper official any deficiency or malfunction of any equipment or component of the vehicle.

(2) The driver shall not transport students unless the vehicle is safe to operate.

(3) School bus drivers shall observe all local and state traffic laws and ordinances.

(4) Drivers shall enforce local school board and Oregon Department of Education rules governing pupils riding school buses.

(5) Drivers shall observe local school board and Oregon Department of Education rules pertaining to school bus drivers.

(6) After stopping at a railway crossing as required by law, the driver shall turn off any noise-producing device with the exception of two-way radio communication. The driver shall then open the bus entrance door and driver window, look and listen for an approaching train, then close the door before proceeding across the tracks.

(7) The driver shall assist in conducting student instruction and evacuation drills as directed by the transportation entity.

(8) Drivers shall report to their employer(s) within 15 days:

(a) Any conviction for driving or criminal offenses specified in OAR 581-053-0050.

(b) Any involvement in an accident.

(c) If their CDL is no longer valid.

(9) A school bus driver shall:

(a) Never drive backwards on the school grounds prior to looking behind the bus, sounding the horn, and placing a responsible person to guard the rear;

(b) Not leave the bus when pupils are in it until the motor is shut off, the brakes set, a manual transmission put in gear and the key removed from the ignition;

(c) Not disengage the clutch or have transmission in neutral to allow the bus to coast;

(d) Stop to load or unload pupils only at designated places;

(e) See that all doors on the bus are kept closed while the bus is in motion;

(f) Bring the bus to a complete stop before taking on or letting off pupils. Whenever possible the driver shall stop at a place where the road may be clearly seen for several hundred feet in either direction;

(g) Not permit anyone to hang on or hitch onto the outside of the bus;

(h) Not use a school bus for any purpose other than transporting pupils to and from schools or authorized school activities;

(i) Not permit anyone else to operate the bus or controls, except with the permission of transportation entity or contractor;

(j) Not permit animals on the bus except guide dogs and assistance animals from recognized programs that will be accepted when accompanying blind, deaf, or physically impaired persons as identified on an IEP. Guide/assistance animals or animals in training as defined in ORS 346.680 are also accepted when they comply with all the following:

(A) Are enrolled and identified in an assistance animal training program registered with and regulated by an appropriate county extension service or designated state agency;

(B) Have a comprehensive immunization record on file with the district;

(C) Are always clearly and distinctively identified as an assistance animal in training;

(D) Are accompanied by the trainer identified in district records;

(E) Continue to demonstrate their ability to ride safely with students, posing no hazards or distractions; and

(F) Comply with any additional requirements and safeguards specified by the transportation entity.

(k) Not permit firearms or other weapons to be carried in the bus;

(l) Not operate the bus with a trailer attached;

(m) Not fill the fuel tank while pupils are in the bus or while the motor is running;

(n) Not transport any person who is not a pupil, a teacher, or an official of the school while traveling the regular route, unless authorized to do so by a authorized school official. School officials may authorize other persons to ride in the school buses on special occasions having to do with school affairs;

(o) Make certain that all aisles and passageways are kept clear;

(p) Not permit signs of any kind to be attached to the bus, except those specifically permitted by law or regulation;

(q) Report to school officials immediately when buses are overloaded as described in OAR 581-053-0002 and ORS 820.180(1)(b);

(r) Stop the bus if any difficulty arises or if disorder prevails in the bus making it unsafe to continue and not proceed until the situation is remedied. Misconduct of pupils shall be reported to the proper official;

(s) Not use tobacco on the school bus and shall not permit passengers to use tobacco on the bus;

(t) Not be under the influence of any alcoholic beverage or any drug likely to affect the person's ability to operate the vehicle safely while on duty; shall not consume an alcoholic beverage, regardless of its alcoholic content or any drug likely to affect the person's ability to operate the vehicle safely while on duty or within eight hours before going on duty to operate a pupil transporting vehicle;

(u) Not allow pupils to leave the bus except at their designated stop without the authorization of school officials;

(v) Ensure students are seated before putting the bus in motion;

(w) Complete any training required by the Oregon Department of Education, transportation entity or contractor;

(x) Make written reports of accidents involving the pupil-transporting vehicle to the Oregon Department of Education. Reports shall be submitted within 72 hours of the accident. Drivers shall use forms provided by ODE.

(y) Make other reports as required by the transportation entity, the Oregon Department of Education and the Motor Vehicles Division;

(z) Use all securement straps and attachments for students with adaptive/assistive devices in a manner consistent with their design;

(aa) Not transport pupils seated on three-wheeled mobile seating devices.

(bb) Not use a cell phone, with or without a hands free device, while operating a school bus unless summoning medical or other emergency help if no other person in the vehicle is capable of summoning help.

(cc) Not eat or drink while operating the bus.

(dd) Not transport students in three wheeled devices.

(ee) Not transport compressed oxygen unless:

(A) The capacity is less than or equal to 22 cubic feet;

(B) The tank is certified and labeled as approved by the Department of Transportation;

(C) The tank valve and regulator are protected from breakage; and

(D) The tank is securely attached to avoid being a hazard for students and away from intense heat.

(ff) Not transport liquid oxygen unless:

(A) The capacity is less than or equal to 23 cubic feet;

(B) The tank is certified and labeled as approved by the Department of Transportation; and

(C) The tank is securely attached to avoid being a hazard for students and away from intense heat.

(gg) Ensure that no students are left unattended on the school bus after a route or activity trip.

(10) Use of Bus Safety Lights:

(a) When pupils must cross the roadway to board, or after leaving the bus, the driver shall actuate the amber flashing warning lights 100 to 300 feet before the stop. The driver shall stop the bus in the right hand traffic lane. The red lights shall remain flashing until all pupils have safely crossed the roadway;

(b) When pupils need not cross the roadway to board, or after leaving the bus, the driver shall:

(A) When practicable, stop completely off the main traveled portion of the roadway. The driver shall not actuate the bus safety lights;

(B) Where it is not practicable to stop completely off the main traveled portion of the roadway the driver shall actuate the amber flashing warning lights 100 to 300 feet before the stop. The driver shall stop the bus in the right-hand traffic lane. The red lights shall remain flashing until pupils have safely boarded or left the bus.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12; ODE 40-2014, f. & cert. ef. 9-3-14

581-053-0240

Minimum Standards for School Buses

(1) Air Cleaner:

(a) The engine intake air cleaner shall be furnished and properly installed by the chassis manufacturer to meet engine specifications;

(b) All Type C and Type D buses equipped with diesel engines shall have an air cleaner restriction indicator properly installed by the chassis manufacturer to meet engine specifications.

(2) Air System: All buses equipped with air systems for brakes shall provide and identify an appropriate air port for plumbing in air powered accessories.

(3) Air-Operated Accessories: Air-operated accessories shall be plumbed into the vehicle's air supply system in compliance with all the following:

(a) Safeguarded by a check valve or equivalent device located between the air supply system and the accessory to prevent air loss due to accessory failure. This shall include the supply line for a designated accessory air tank;

(b) Connected to the air supply system in compliance with all applicable Federal Motor Vehicle Safety Standards;

(c) Connected in the manner prescribed by the vehicle manufacturer.

(4) Aisle:

(a) Minimum clearance of all aisles shall be 12 inches.

(b) Minimum clearance of aisles from wheelchair areas to an emergency door shall be at least 30 inches wide to permit passage of a wheelchair. Special service entrance doors are not considered emergency doors unless in compliance with all right side emergency door requirements.

(5) Axles: The front and rear axles and suspension systems shall have a gross axle weight rating at ground commensurate with the respective front and rear weight loads of the bus loaded to the rated passenger capacity.

(6) Back-up camera: A back-up camera may be installed. The camera housing shall not block any signage or lights that are required. The monitor for the back-up camera system shall not block the view of any window, gauges, or required indicator lights. The monitor shall only work when the transmission is in reverse.

(7) Body Construction:

(a) Construction shall be of prime commercial quality steel, or other metal, or other material with strength at least equivalent to all-steel as certified by bus body manufacturer;

(b) Construction shall provide a water-tight and reasonably dustproof unit;

(c) Must meet or exceed applicable federal motor vehicle safety standards for construction, effective December 2, 1993.

(8) Body Sizes:

(a) Body manufacturer shall determine the vehicle's maximum designed and equipped passenger capacity and post it on the vehicle with the GVWR and vehicle compliance information.

(b) For determining standard requirements on buses with power lifts and wheel chair tie down stations, the passenger and gross vehicle weight rating classification will be determined as if the vehicle were equipped with a standard seating arrangement.

(9) Brakes:

(a) Air brakes are required on all buses having a manufacturer's gross vehicle weight rating of 26,001 pounds or greater;

(b) Buses using air or vacuum in the operation of the brake system shall be equipped with warning signals, readily audible and visible to the driver, that will give a continuous warning when the air pressure available in the system for braking is 60 psi (pounds per square inch) or less or the vacuum in the system available for braking is 8 inches of mercury or less. An illuminated gauge shall be provided that will indicate to the driver, the air pressure in pounds per square inch available for the operation of the brake.

(A) Vacuum-assist brake systems shall have a reservoir used exclusively for brakes which shall be adequate to ensure loss in vacuum at full stroke application of not more than 30 percent with engine not running. Brake system on gas-powered chassis shall include suitable and convenient connections for the installation of separate vacuum reservoir;

(B) Any brake system dry reservoir shall be so safeguarded by a check valve or equivalent device that in the event of failure or leakage in its connection to the source of compressed air or vacuum, the stored dry air or vacuum shall not be depleted by the leakage or failure.

(c) Buses using a hydraulic assist-booster in the operation of brake system shall be equipped with a warning signal, readily audible and visible to the driver, which will provide continuous warning in the event of a loss of fluid pressure from primary source or loss of electric source powering the backup system;

(d) The brake lines and booster-assist lines shall be protected from excessive heat and vibrations and be so installed as to prevent chafing;

(e) All brake systems shall be designed to permit visual inspection of brake lining wear without removal of any chassis components except for inspection dust covers or wheels;

(f) Air brake systems shall be equipped with manual drain valves on all air tanks. A provision shall be made to operate manual drain valve(s) on first (wet) reservoir(s) from the side of the bus unless one of the following options is provided:

(A) Automatic moisture ejector on the first (wet) reservoir;

(B) An air dryer that has the drying ability to ensure an adequate margin of safety under normal and adverse operating conditions;

(C) Skirt-mounted controls for manual drain valve(s) shall not extend beyond the outer side of bus skirt panel.

(10) Bumper (Front):

(a) The bumper on Type A-2, B, C, and D buses shall be equivalent in strength and durability to pressed steel channel at least 3/16 inches thick and not less than 8 inches wide (high). It shall extend beyond the forward-most part of the body, grille, hood and fenders and shall extend to the outer edges of the fenders at the bumper's top line.

(b) Type A-1 buses may be equipped with an OEM-supplied bumper.

(c) The bumper shall be of sufficient strength to permit pushing or being pushed by another vehicle with the same GVWR on a smooth surface with a five degree (8.7 percent) grade, without permanent distortion to the bumper, chassis, or body.

(d) The bumper shall be designed or reinforced so that it will not deform when the bus is lifted by a chain that is attached to both tow hooks when the bus is empty and positioned on a level, hard surface and both tow hooks share the load equally.

(e) Deer guards may be added to a front bumper to protect the front grill. Deer guards shall not be in any portion of the driver's forward view, including use of all mirrors.

(11) Bumper (Rear):

(a) Rear bumper for all body on chassis units shall be of pressed steel channel or equivalent material at least 3/16-inch thick and eight inches wide (high), and of sufficient strength to permit pushing by another vehicle without distortion;

(b) Bumper for all body on chassis units shall wrap around back corners of bus. It shall extend forward at least 12 inches, measured from rear-most point of body at floor line;

(c) Bumper shall be attached to chassis frame in such manner that it may be easily removed, shall be so braced as to develop full strength of bumper section from rear or side impact, and shall be so attached as to prevent the insertion of small fingers between the body and bumper;

(d) Bumper shall extend beyond rear-most part of body surface at least one inch, measured at floor line;

(e) An energy absorbing rear bumper may be used providing a self-restoring energy absorbing bumper system so attached as to prevent the hitching of rides and of sufficient strength to permit pushing by another vehicle without permanent distortion to the bumper, chassis, or body;

(f) The manufacturer of the energy absorbing system shall provide evidence from an approved test facility (capable of performing the above FMVSS tests) that their product conforms to the above.

(12) Certification:

(a) The vehicle shall be certified as a "School Bus" as required in the FMVSS certification requirements of 49 CFR part 567.

(b) Manufacturer will, upon request, certify to the Oregon Department of Education that their product meets minimum standards on items not covered by FMVSS certification requirements of 49 CFR part 567.

(13) Chains, Automatic: Automatic tire chains (traction) may be installed at drive wheels in conformance with manufacturer specifications and any applicable chassis manufacturer standards. (Note: Air-applied chain systems must comply with air-operated accessory requirement included in this rule.)

(14) Child Safety Restraint Systems:

(a) Child safety restraint systems used for transporting infants, toddlers, or others requiring added support shall conform to specific strength and performance standards or dynamic test standards identified in 49 CFR 571.213 for protection of a child up to 50 pounds;

(b) Child safety restraint systems shall bear a label specifying compliance with all applicable Federal Motor Vehicle Safety Standards at the time of their manufacture;

(c) Child safety restraint systems shall be secured to the school bus seat as per the manufacturer's instructions. If used, a child safety restraint anchorage system must meet 49 CFR 571.225 and a seat belt shall meet section 61 of this rule.

(15) Clutch:

(a) Clutch torque capacity shall be equal to or greater than, the engine torque output;

(b) A starter interlock shall be installed to prevent actuation of the starter if the clutch is not depressed on all buses manufactured after January 1, 1999.

(16) Color:

(a) Chassis and bumpers shall be black; Wheels may be painted either black or National School Bus Yellow. Type A-1, A-2, and B buses may have manufacturer standard color wheels.

(b) The school bus body shall be painted a uniform National School Bus Yellow. The body exterior paint trim, bumper, lamp hoods, and emergency door lettering shall be black. The engine hood may be painted low-luster yellow. The roof of the bus may be painted white. The white color may extend across the roof down to the drip rails or within 6 inches above the passenger windows on the sides of the bus except that front and rear caps shall remain National School Bus Yellow. Retroreflective material may be used as trim on rear bumper;

(17) Crossing Arm: A crossing arm may be mounted on the front of a school bus in accordance with the following specifications:

(a) Installed on the front bumper as close as practicable to the right (curb) side, opening left to right and providing an extension of the curbside of bus;

(b) Arm shall be located at least 18 inches but not more than 32 inches above ground level and in the closed position; arm shall not cover numbers on license plate;

(c) Installed in a manner to limit the outward deployment to 90 degrees from the front bumper;

(d) Arm shall extend 70 inches from the front bumper in its extended position;

(e) Arm shall be activated through the existing bus safety light system assuring the driver is required to take no additional action to either deploy or retract the arm. No outward movement of the arm may occur before red flashing sequence begins;

(f) Override switches are prohibited;

(g) Crossing arm must be safeguarded from damage due to pushing or pulling by hand through the use of a clutch-like device or equivalent, double spring hinges are not acceptable;

(h) The arm may be equipped with an amber flashing light that functions only when the arm is in the fully extended position;

(i) Entire unit shall have no sharp edges or other projections that could injure children or others due to casual contact;

(j) Unit shall provide secure mounting opportunities to prevent misalignment or failure due to extreme weather conditions;

(k) Shall be either air, vacuum, or electrically operated and in conformance to section (69)(g) of this rule;

(l) Crossing arm color shall be yellow or yellow and black;

(m) All components and connections shall be weatherproofed.

(18) Cup holders on vehicles manufactured after July 1, 2013 shall not be allowed. No additional cup holders shall be installed.

(19) Defrosters:

(a) Defrosting and defogging equipment shall direct a sufficient flow of heated air onto the windshield, the window to the left of the driver and the glass in the viewing area directly to the right of the driver to reduce the amount of frost, fog and snow;

(b) The defrosting system shall conform to SAE performance standards J-381 and 382;

(c) The defroster and defogging system shall be capable of furnishing heated outside ambient air, except that part of the system furnishing additional air to the windshield, entrance door and step well may be of the recirculation air type;

(d) Auxiliary fans, if used, shall not be considered as a defrosting and defogging system:

(A) Auxiliary fans shall be mounted above the windshield, so as not to interfere with the driver's vision of the roadway, mirrors or students outside the bus;

(B) The fan blades shall be covered with a protective cage.

(20) Doors:

(a) Service door shall be under the driver's control, designed to afford easy release and to provide a positive latching device on manual operating doors to prevent accidental opening. When hand lever is used, no part shall come together so as to shear or crush fingers. Manual door controls shall not require more than 25 pounds of force to operate at any point throughout the range of operation, as tested on a 10% grade, both up hill and downhill;

(b) Service door shall be located on right side of bus opposite driver and within direct view;

(c) Service door shall have minimum horizontal opening of 24 inches and minimum vertical opening of 68 inches;

(d) Service door shall be a split-type door and shall open outward;

(e) If service door is power operated, pressure shall be controlled by a regulator valve or switch and provision shall be made for opening the door manually in the event of driver disability or mechanical failure. Emergency release valve or switch for power operated doors shall be located in an accessible place, in plain view, as near the service door as practicable. Valve or switch shall be properly identified and "open" and "closed" position plainly marked;

(f) All service door windows shall be approved safety glass. Bottom of lower glass panel shall not be more than ten inches from top surface of bottom step. Top of upper glass panel shall not be more than six inches from top of door.

(g) Vertical closing edges on the service door shall be equipped with flexible material to protect children's fingers.

(h) There shall be no door to left of driver. (This shall not be interpreted to conflict with emergency doors or windows.) Type A-1 and A-2 and B buses may be equipped with chassis manufacturers' left side driver's door;

(i) All doors shall be equipped with an energy absorbing pad at the top edge of each door opening. Pad shall be at least 3 inches wide and 1 inch thick and extend the full width of the door opening.

(21) Drive Shaft: Drive shafts over 24 inches in length shall be protected by metal guard or guards around circumference of drive shaft to reduce the possibility of the shaft whipping through floor or dropping to ground if broken. Guards shall be mounted around front half of each drive shaft section.

(22) Electrical System:

(a) Battery(ies):

(A) Battery shall have a minimum cold cranking capacity rating equal to the cranking current required for 30-seconds at 0° Fahrenheit (-17.8c) and a minimum reserve capacity rating of 120-minutes at 25 amp. Higher capacities may be needed dependent upon optional equipment and local environmental conditions;

(B) The manufacturer shall securely attach the battery(ies) on a slide-out or swing-out tray in a closed, vented compartment in the body skirt so that the battery(ies) is accessible for convenient servicing from the outside. Battery compartment(s) door or cover shall be hinged at front or top and secured by adequate and conveniently operated latch or other type fastener. Type A-1 and A-2 buses may have battery(ies) mounted under the hood in an accessible location;

(C) Access to battery shall not be through body floor;

(D) Buses may be equipped with a battery shut-off switch. The switch shall be placed in a battery compartment or the engine compartment.

(b) Circuits: An appropriate identifying diagram (color and number coded) for electrical circuits shall be provided to the body manufacturer for distribution to the end user;

(c) Generator or Alternator:

(A) All buses with a GVWR of 14,500 pounds or less shall have a generator or alternator with a minimum rating of at least 130 amperes (in accordance with Society of Automotive Engineer rating) with minimum charging of 50 percent of maximum rated output at manufacturer's recommended engine idle speed (12 volt system), and shall be ventilated and voltage-controlled and, if necessary, current-controlled;

(B) All buses with a GVWR greater than 14,500 pounds shall have a generator or alternator with a minimum rating of at least 160 amperes (in accordance with Society of Automotive Engineer rating) with minimum charging of 50 percent of maximum rated output at manufacturer's recommended engine idle speed (12 volt system), and shall be ventilated and voltage-controlled and, if necessary, current-controlled;

(C) Generator or alternator may be direct/gear driven or belt driven. Belt driven generator or alternators shall be capable of handling the rated capacity of the generator or alternator with no detrimental effect on other belt driven components;

(d) Wiring, Chassis:

(A) General — all wiring shall conform to current applicable recommended practices of the Society of Automotive Engineers. All wiring shall use a standard color coding and each chassis shall be delivered with a wiring diagram that coincides with the wiring of the chassis;

(B) Chassis manufacturer shall install a readily accessible terminal strip or plug on the body side of the cowl, or at accessible location in engine compartment of vehicles designed without a cowl, which shall contain the following terminals for the body connections:

(i) Main 100 amp body circuit;

(ii) Tail lamps;

(iii) Right turn signal;

(iv) Left turn signal;

(v) Stop lamps;

(vi) Back up lamps;

(vii) Instrument panel lights (controlled by dimmer switch).

(e) Wiring, Body:

(A) All wiring shall conform to current standards of Society of Automotive Engineers;

(B) Circuits:

(i) Wiring shall be arranged in circuits, as required, with a circuit protection system. A system of color or number coding shall be used for all buses purchased after September 1, 1993 and an appropriate identifying diagram shall be provided the end user along with the wiring diagram provided by the chassis manufacturer. The following interconnecting circuits shall be color coded as noted:

(I) Left rear directional light — yellow;

(II) Right rear directional light — dark green;

(III) Stop lights — red;

(IV) Back-up lights — blue;

(V) Tail lights — brown;

(VI) Ground — white;

(VII) Ignition feed, primary feed — black;

(VIII) The color of cables shall correspond to SAE J1128.

(ii) Wiring shall be arranged in at least seven regular circuits, as follows:

(I) Head, tail, stop (brake) and instrument panel lamps;

(II) Clearance and step well lamps (step well lamp shall be activated when service door is opened);

(III) Dome lamp;

(IV) Ignition and emergency door signal;

(V) Turn signal lamps;

(VI) School Bus Safety Lights;

(VII) Heaters and defrosters.

(iii) Any of above combination circuits may be subdivided into additional independent circuits;

(iv) Whenever possible, all other electrical functions (such as sanders and electric-type windshield wipers) shall be provided with independent and properly protected circuits.

(C) The entire electrical system of the body shall be designed for the same voltage as the chassis on which the body is mounted;

(D) All wiring shall have an amperage capacity equal to or exceeding the designed load. All wiring splices are to be done at an accessible location and noted as splices on wiring schematic;

(E) Each body circuit shall be coded by number or letter on a diagram of easily readable size and be furnished with each bus body or affixed in an area convenient to the electrical accessory control panel;

(F) Body power wire is to be attached to special terminal on the chassis;

(G) All wires passing through metal openings shall be protected by a grommet;

(H) Wires not enclosed within body shall be fastened securely at intervals of not more than 18 inches. All joints shall be soldered or joined by equally effective connectors and shall be moisture and corrosion resistant.

(I) A 12-volt power port may be installed in the driver's area;

(J) There shall be a non-momentary manual noise suppression switch installed in the control panel. The switch shall be clearly labeled and distinguishable from other switches. This switch shall be an on/off type that deactivates body equipment that produces noise, including the AM/FM/audio radio, heaters, air conditioners, fans and defrosters. The switch shall not deactivate safety systems such as windshield wipers or lighting systems.

(23) Emergency Equipment:

(a) Belt cutter: Each bus equipped with passenger seat belts or webbed restraining devices shall have a belt cutter mounted in the driver's compartment within reach of a driver sitting in the driver's seat. Belt cutter shall be of a design offering protected cutting edges to prevent accidental or intentional injury to drivers or passengers;

(b) Emergency road reflectors:

(A) Each bus shall be equipped with at least three reflex reflective triangle vehicle warning devices that conform to 49 CFR 581.125;

(B) Reflectors must be in a container securely mounted with nut-and-bolt fasteners enhanced with large flat (fender) washers or held in place by a nut-and-bolt mounted metal bracket that also protects and secures the container lid. Both shall be located in an accessible location. Reflectors shall not be mounted in any engine compartment;

(c) Body fluid cleanup kit: Buses shall have a removable moisture proof and dust proof body fluid cleanup kit, mounted in an accessible place within the driver's compartment. Contents shall include at least the following items:

(A) Two pair rubber/latex gloves;

(B) Two four-ounce packages of stabilized chlorine absorbent deodorant (or equivalent) capable of stabilizing at least 1 liter/36 fl. oz. of body fluids;

(C) One spatula for pick up of congealed fluid;

(D) One plastic bag in which to place congealed fluid;

(E) One red plastic bag with tie, identified for infectious waste and as a bio-hazard;

(F) One two-ounce bottle of germicidal detergent to apply to a contaminated area;

(G) Four paper towels to wipe up contaminated area;

(H) One one-ounce antiseptic alcohol hand rinse (or equivalent);

(I) One placard of step by step use instructions;

(J) Germicidal detergents, stabilized chlorine absorbent deodorant, alcohol hand rinse, or their equivalents shall provide documentation of EPA approval regarding their microbiological efficacy for at least the following:

(i) *Staphylococcus aureus*;

(ii) *Pseudomonas aeruginosa*;

(iii) *Salmonella choleraesuis*;

(iv) *Streptococcus species*;

(v) Herpes simplex Type II;

(vi) HIV (Associated with AIDS);

(vii) Fungi (athlete's foot);

(viii) Poliovirus; and

(ix) Tuberculosis.

(K) Documentation of efficacy for Hepatitis B may be hospital or test studies. The certified effective shelf life of these products shall be a minimum of 12 months. Product expiration date shall be clearly displayed on all time-sensitive products.

(d) Fire extinguishers:

(A) Each bus shall be equipped with at least one pressurized, dry, chemical type fire extinguisher, mounted in a bracket, located in the driver's compartment, and readily accessible. A pressure gauge shall be mounted on the extinguisher so as to be readily read without removing the extinguisher from its mounted position;

(B) The fire extinguisher shall be of a type approved by the Underwriters Laboratories, Inc., with a rating of not less than 2 A-10 BC. The extinguisher shall have a minimum five pound capacity and equipped with a hose and nozzle;

(C) The operating mechanism shall be sealed with a type of seal that will not interfere with the use of the fire extinguisher;

(D) Extinguishers with plastic heads are not permitted.

(e) First aid kit:

(A) Each bus shall have a readily removable, moisture proof and dustproof first-aid kit container mounted in an accessible place within driver's compartment;

(B) The first aid kit contains a minimum of 24 units that shall include the following:

(i) One 1" adhesive compress — 16 per unit;

(ii) Two 2" bandage compress — 4 per unit;

(iii) Two 3" bandage compress — 2 per unit;

(iv) Two 4" bandage compress — 1 per unit;

(v) Two 3" x 3" plain gauze pads — 4 per unit;

(vi) Two 2" x 6 yards gauze roller bandage — 1 per unit;

(vii) Three 1/2 square yard gauze;

(viii) Three 24" x 72" gauze;

(ix) Four triangular bandages;

(x) One 1/2 x 5 yard adhesive tape - one per unit;

(xi) One round nose scissors and tweezers. Latex gloves - one pair; and

(xii) One micro-shield for mouth-to-mouth airway (to lay on top of other contents).

(C) Specific local requirements may be substituted in lieu of 2 units of 1/2 square yard gauze.

(f) Any piece of emergency equipment may be mounted in an enclosed compartment, provided the compartment is labeled in not less than 1 inch letters, identifying each piece of equipment contained therein. If emergency road reflectors are stored outside the driver's compartment, the location of the triangles shall be displayed in a readily viewable location by the driver in minimum 1 inch letters.

(24) Emergency Exits:

(a) All emergency exits and doors shall comply with the design and performance requirements of 49 CFR 571.217, Bus Emergency Exits and Window Retention and Release applicable to that type of exit.

(b) In addition to the requirements of 49 CFR 571.217, all emergency exits and doors shall meet the additional requirements:

(A) Doors:

(i) Upper portion of emergency door shall be equipped with approved safety glazing, exposed area of not less than 400 square inches;

(ii) Lower portion of rear emergency door shall be equipped with approved safety glass and shall have an exposed area of not less than 350 square inches of approved safety glazing;

(iii) There shall be no steps leading to emergency door;

(iv) Clearance between outside emergency door handle and emergency door shall not exceed 1/4 inch when handle is in the closed position. Handle shall not provide a firm handhold for someone trying to "hitch" a ride. Handles shall be positioned to prevent snagging of clothing or pinching of fingers;

(v) Emergency door hinge shall not provide an opening for insertion of fingers when door is closed;

(vi) An adequately padded head bumper shall be placed on the interior directly above any emergency exit door opening. The pad shall extend the full width of the door opening and shall be at least three inches wide and one inch thick;

(vii) If emergency door is lockable, provision must be made to prevent the bus from starting while the door is locked. An audible warning which does not affect engine operation shall be provided to alert the driver should the door be locked while the bus is in operation; and

(viii) Emergency doors shall be labeled "Emergency Door" in minimum 2 inch letters that contrast with the background at the top of, or immediately above, the emergency door on both the inside and outside of the bus;

(B) Rear Push-Out Window:

(i) Rear push-out window shall be operable from inside or outside the bus;

(ii) Rear push-out window shall have a lifting assistance device that will aid in lifting and holding the rear emergency window open; and

(iii) If rear push-out window is lockable, provision must be made to prevent the bus from starting while the exit is locked. An audible warning which does not affect engine operation shall be provided to alert the driver should the exit be locked while the bus is in operation;

(C) Swing-Out Windows:

(i) Swing-out windows are windows along the side of the bus with a hinge that is opposite of the emergency release so that it "swings-out" when opened. Swing-out windows may be hinged along any edge of the window. If the hinge is installed vertically, it shall be installed on the forward side of the window;

(ii) Swing-out windows shall not be located above a stop arm;

(iii) Swing-out windows shall provide a minimum clear opening of 18" x 24"; and

(iv) Swing-out windows that are inoperable from the outside shall include the message "Operates From Inside Only" adjacent to the outside "Emergency Exit" labeling required under 49 CFR 571.217;

(D) Roof Hatches:

(i) Roof hatch shall be waterproof and provide a minimum clear opening of 16" x 16";

(ii) When a release mechanism on the roof hatch is open and the vehicle's ignition is in the "on" position, a continuous warning shall be audible at the drivers seating position; and

(iii) Roof hatch may also serve as a roof ventilator; however, this shall not be used in place of the required static vent.

(c) Each bus shall be equipped with:

(A) A rear emergency exit door and one roof hatch; or

(B) A left side emergency exit door, a rear emergency push out window, and one roof hatch.

(d) Buses equipped with a rear emergency exit door and roof hatch (as in paragraph (c)(A) of this section) require additional emergency exits based on the maximum design passenger capacity listed below:

(A) Buses designed or equipped with a maximum design passenger capacity of 1 to 22 shall also provide:

(i) 2 swing-out windows placed at approximately the midpoint of the passenger compartment; or

(ii) Side windows with a 12 inch vertical drop.

(B) Buses designed or equipped with a maximum design passenger capacity of 23 to 45 shall also provide:

(i) Left side emergency door; or

(ii) 2 swing-out windows at approximately the midpoint of the passenger compartment.

(C) Buses designed or equipped with a maximum design passenger capacity of 46 and above shall also provide one additional roof hatch and:

(i) Left side emergency door; or

(ii) 4 swing-out windows at approximately the midpoint of the passenger compartment, but not immediately adjacent to each other.

(e) Buses equipped with a left side door and rear push-out window (as in paragraph (c)(B) of this section) require additional emergency exits based on the maximum design passenger capacity listed below:

(A) Buses designed or equipped with a maximum design passenger capacity of 1 to 22 shall also provide:

(i) 2 swing-out windows placed at approximately the midpoint of the passenger compartment; or

(ii) Side windows with a 12 inch vertical drop.

(B) Buses designed or equipped with a maximum design passenger capacity of 23 to 45 shall also provide two swing out windows.

(C) Buses designed or equipped with a maximum design passenger capacity of 46 and above shall also provide one additional roof hatch and:

(i) Right side emergency door; or

(ii) Four swing-out windows.

(f) Any additional emergency exits necessary to comply with the "additional emergency exit area" requirements of 49 CFR 571.217 shall be made by the vehicle purchaser.

(g) Manufacturer shall identify all emergency exits used for calculations relating to this rule and 49 CFR 571.217 compliance and list the daylight (clear) opening for each exit.

(h) All emergency exits shall be marked on the exterior perimeter with one inch retroreflective yellow material that meets the retro reflectivity requirements of section (57) of this rule. The color of the retroreflective material may be white for a roof hatch on a white roof.

(25) Emissions: School buses that operate on diesel fuel shall:

(a) Have engines manufactured on or after January 1, 2007; or

(b) Be retrofitted to meet the same federal emission standards as a bus equipped with an engine manufactured on or after January 1, 2007.

(26) Engine Compartment Fire Suppression System: Automatic fire extinguisher systems may be installed in the engine compartment on buses. System shall have a visible gauge easily read from the driver's seat and a manual activation switch clearly identified and located in the driver's compartment. The entire system must be UL (Underwriters Laboratories) approved and assure protection from passenger compartment. Extinguisher system manual activation switch/control shall be safeguarded from accidental activation by a pull-pin or equivalent device. The extinguisher, if mounted in the passenger compartment, shall not be readily removable for use elsewhere, but dedicated for the engine compartment.

(27) Exhaust System:

(a) Exhaust pipe, muffler, and tailpipe shall be outside bus body compartment and attached to chassis;

(b) Tailpipe shall be constructed of a corrosion-resistant tubing material at least equal in strength and durability to 16 gauge steel tubing;

(c) Tailpipe shall meet one of the following options:

(A) Tailpipe may exit in the rear of the bus provided it:

(i) Does not create a hand hold.

(ii) Does not create a step.

(iii) Exhaust is defused away from passenger compartment.

(B) Tailpipe may extend to, but not beyond the body limits on the left side of the bus forward or rearward of the rear tires outboard of chassis centerline as described in sub-section (c)(C) of this section. If the tailpipe terminates forward of the rear tires it shall terminate not more than 24 inches or less than 6 inches forward of rear tires. No tailpipe shall terminate beneath any emergency exit or fuel fill receptacle;

(C) Tailpipe shall not exit the right side of the vehicle.

(d) Exhaust system shall be properly insulated from fuel tank and connections by securely attached metal shield at any point where it is 12 inches or less from tank or tank connections;

(e) Muffler shall be constructed of corrosion-resistant material.

(28) Fenders, Front:

(a) Total spread of outer edges of front fenders, measured at fender line, shall exceed total spread of front tires when front wheels are in straight-ahead position;

(b) When equipped, front fenders shall be properly braced and free from any body attachments.

(29) Floor:

(a) Floor in under seat area, including tops of wheel housing, driver's compartment and toe board, shall be covered with rubber floor covering or equivalent having minimum overall thickness of .125 inch:

(A) Floor covering in aisle shall be of aisle-type fire-resistant rubber or equivalent, wear-resistant and ribbed or equivalent non-slip material. Minimum overall thickness shall be .1875 inch measured from tops of ribs;

(B) Floor covering shall be permanently bonded to floor and shall not crack when subjected to sudden changes in temperature. Bonding or adhesive material shall be waterproof and shall be of type recommended by manufacturer of floor-covering material. All seams shall be sealed with waterproof sealer.

(b) Edge of floor at step well shall be treated as a step edge and shall be protected as required in section (67)(f)(C) of this rule;

(c) A vapor and liquid proof inspection plate provided for access to the fuel tank sending may be installed;

(d) A subfloor of 5-ply plywood, at least 5/8 inch nominal thickness or equivalent, shall be installed over the standard school bus floor. Plywood shall equal or exceed properties of exterior grade C-C plywood as specified in NIST PS 1. Floor shall be level from front to back and from side to side except for wheel housing, toe board and driver's seat platform areas;

(e) Plywood sub-floor may be replaced with an equivalent material provided it has equal or greater insulation R-value, sound abatement, deterioration-resistant, and moisture-resistant properties.

(30) Frame:

(a) Frame shall be of such design and strength characteristics as to correspond at least to standard practice, for trucks of same general load characteristics which are used for highway service;

(b) Any secondary manufacturer that modifies the original chassis frame shall guarantee the performance of workmanship and materials resulting from such modification;

(c) Any frame modification shall not be for the purpose of extending the wheelbase;

(d) Holes in top or bottom flanges of frame side rail shall not be permitted except as provided in original chassis frame. There shall be no welding to frame side rails except by chassis manufacturer;

(e) Frame lengths shall be established in accordance with the design criteria for the complete vehicle.

(31) Fuel System:

(a) The following fuels may be used:

(A) Diesel, including biodiesel blends,

(B) Gasoline, including ethanol blends,

(C) Liquefied Petroleum Gas (LPG),

(D) Compressed Natural Gas (CNG),

(E) Dual fuel systems using any combination of (A) through

(D) above, provided that the system:

(i) Meets Environmental Protection Agency specifications;

(ii) Meets vehicle manufacture specifications; and

(iii) Has been approved by the Oregon Department of Education.

(F) Other fuels may be approved by the Oregon Department of Education upon request.

(b) Buses with a capacity of 57 or less shall be equipped with one or more fuel tanks that provide a combined liquid capacity of not less than 30 gallons.

(c) Buses with a capacity of 58 or more shall be equipped with one or more fuel tanks that provide a combined liquid capacity of not less than 60 gallons.

(d) The actual draw capacity of each fuel tank shall be a minimum of 83 percent of the tank capacity.

(e) No portion of the fuel system, which is located outside of the engine compartment, except the filler tube, shall extend above the top of the chassis frame rail. Fuel lines shall be mounted to obtain maximum possible protection from the chassis frame;

(f) Fuel filter with replaceable element shall be installed between fuel tank and engine;

(g) Tank(s) shall be mounted, filled and vented outside of body. The tank(s) location shall not permit fuel spillage to drip or drain on any portion of the exhaust system.

(h) Liquefied Petroleum Gas (LPG) systems shall comply with National Fire Protection Association (NFPA) 58, Liquefied Petroleum Gas Code.

(32) G.P.S. Navigation: A G.P.S. navigation unit may be installed. The unit shall not block any windows, gauges or indicator lights that are required. Portable units shall use an installed 12 volt power port.

(33) Governor:

(a) An electronic engine speed limiter shall be provided and set to limit engine speed, not to exceed the maximum revolutions per minute, as recommended by the engine manufacturer.

(b) When it is desired to limit road speed, a road-speed governor should be installed;

(34) Heaters:

(a) At least one heater of hot water type shall be required;

(b) If only one heater is used, it shall be of fresh-air or combination fresh-air and recirculation type;

(c) If more than one heater is used, additional heaters may be of recirculation air type;

(d) The heating system shall be capable of maintaining throughout the bus a temperature of not less than 50 degrees Fahrenheit at average minimum January temperature as established by the National Weather Service, for the area in which the vehicle is to be operated;

(e) All heaters shall bear a name plate which shall indicate the heater rating in accordance with SBMTC Standard No. 001, said plate to be affixed by the heater manufacturer which shall constitute certification that the heater performance is as shown on the plate;

(f) Heater hoses shall be adequately supported to guard against excessive wear due to vibration. The hoses shall not dangle or rub against the chassis or sharp edges, and shall not interfere with or restrict the operation of any engine function. Heater hose shall conform to SAE J20c. Heater hoses on the interior of the bus shall be shielded to prevent scalding of the driver or passengers;

(g) Each hot water heater system installed by a body manufacturer shall include a shutoff valve installed in the pressure and return lines near the engine in an accessible location. There shall be a water flow regulating valve or airflow regulating door for the front heater installed for convenient operation by the driver while seated;

(h) Return heater lines on body company installed heaters shall be equipped with bleeder valves in an accessible location to allow for removal of heater line air;

(i) Auxiliary fuel-fired combustion heating systems may be installed, provided that:

(A) The auxiliary heating system shall be marked plainly with certification stating, "Meets FMCSA Bus Heater Requirements"

(B) The auxiliary heating system shall utilize the same type of fuel as specified for the vehicle engine;

(C) The auxiliary heating system may be direct, hot air-type or may be connected to the engine coolant system;

(D) When connected to the engine coolant system, the auxiliary heating system may be used to preheat the engine coolant or preheat and add supplementary heat to the heating system, or both;

(E) Auxiliary heating systems shall be installed pursuant to the manufacturer's recommendations outside of the passenger compartment;

(F) Exhaust from auxiliary heating system shall not exit the right side of the bus;

(G) Installation of auxiliary heating system shall not compromise the requirements of Title 49 CFR Part 579.301 Fuel System Integrity.

(j) Portable heaters shall not be used.

(35) Horn: Bus shall be equipped with horn or horns of standard make, each horn capable of producing complex sound in bands of audio frequencies between approximately 250 and 2,000 cycles per second and tested per SAE Standard J-377.

(36) Identification:

(a) School buses shall bear the words "SCHOOL BUS" in black capital series letters at least eight inches high and of proportionate width on both front and rear of bus. Lettering shall be placed as high as possible without impairment of its visibility. The background shall be a maximum of 12 inches by 36 inches and shall be either:

(A) Retroreflective material that conforms to the retro reflectivity requirements of section (57); or

(B) Illuminated.

(b) A warning sign shall be installed on the rear of all school buses calling attention to the school bus stop law. It shall be located in the most attainable vertical center of the rear emergency door, between the upper and lower windows. Signs on rear engine transit type buses shall be vertically centered and horizontally adjacent to the left and right upper brake lights. Sign shall be either:

(A) A decal with white retroreflectorized letters that conform to the retroreflective requirements listed in section (57) of this rule mounted on a flat black background. The word message shall be centered horizontally and vertically on the decal. The decal shall have the lettering shown below:

UNLAWFUL TO PASS (3 inches in height)

WHEN (1 inches in height)

RED LIGHTS FLASH (3 inches in height) or:

(B) An electronic sign that displays warning messages to motorists. The electronic sign:

(i) Shall be sealed weather tight construction approximately 23.5 X 8.75 X 1.5 in size.

(ii) Shall be connected to the school bus safety lights;

(iii) Shall alternately flash the word message "CAUTION" and the word message "STOPPING" when the amber school bus safety lights are active. The letters in the word messages shall be amber with a minimum height of three inches;

(iv) Shall alternately flash the word message "STOP" and the word message "DO NOT PASS" when the red school bus lights are active. The letters in the word messages shall be red with a minimum of three inches;

(v) May flash or display the word message "CAUTION" or the word message "CAUTION STOPPING" when the hazard lights are activated. The letters in the word message shall be amber with a minimum height of three inches;

(vi) May flash or display the word message "CAUTION" when the backup lights are activated. The letters in the word message shall be amber with a minimum height of three inches;

(vii) Shall have a minimum viewing angle of 15 degrees on each side of the perpendicular axis;

(viii) Flashing messages may be controlled by the hazard light and school bus safety light flashers;

(ix) Word and picture messages shall be clearly visible in direct sunlight from a distance of 500 feet along the axis of the vehicle; and

(x) L.E.D. lights, if used, shall be of sufficient quantity to result in a clear and legible message.

(C) An electronic sign that displays warning messages to motorists may be placed on the front of the bus provided that:

(i) There is an electronic sign on the back of the bus per section (B) above;

(ii) The sign shall only be wired to the amber and red bus safety lights; and

(iii) The sign shall be mounted below the windshield, vertically centered.

(c) The name of the school district, private school, or parochial school, and contractor name if applicable, shall be placed on the left and right sides of the bus. The name shall appear in the

area directly below the side windows and the letters and figures in the name shall not be less than four inches nor more than seven inches in height and of proportionate width;

(d) School team name or contractor's insignia may be placed above the side windows on the front portion of the bus body. All such lettering must be approved by the Pupil Transportation Section of the Oregon Department of Education;

(e) One bus identification number at least four inches in height shall be placed on a flat vertical surface on each side and on the front and rear of the bus. At least one complete bus identification number shall be visible from any point 50 feet from the bus. Type A-1 and A-2 bus numbers may be three inches in height.

(f) Only signs and lettering approved by state law or by the regulations of the Department of Education shall appear on the inside or outside of a school bus.

(g) Optional identification and lettering may be added to the vehicle as outlined below:

(i) Bus identification number on top of the bus. Numbers shall be black and a minimum of 12 inches high;

(ii) The location of the battery(ies) identified by the word "BATTERY" or "BATTERIES" in black letters on the battery compartment door in 2 inch capital series letters;

(iii) Manufacture or dealer identification or logos. Placement must be approved by the Pupil Transportation Section of the Oregon Department of Education;

(iv) Identification of fuel type on or adjacent to the fuel filler opening in 2 inch black capital series letters;

(v) Symbols, letters, or numbers not to exceed 64 square inches of total display near the entrance door, displaying information for identification by the students of the bus or route served;

(vi) Buses designed and used for transporting children with special needs may display universal handicapped symbols located near service entrance door and at the rear of the vehicle below the window line. Such emblems shall be white on blue, shall not exceed 12 inches square in size, and may be reflectorized.

(37) Inside Height:

(a) Clear inside body height for type A-1 buses shall be a minimum of 62 inches measured at any point on the longitudinal center line from the front vertical bow to the rear vertical bow.

(b) Clear inside body height for all other buses shall be a minimum of 72 inches measured at any point on the longitudinal center line from front vertical bow to rear vertical bow.

(c) Height requirements do not apply to air conditioning units installed in the passenger compartment when installed to manufacturer's specifications.

(38) Instruments, Gauges, and Indicators:

(a) Bus shall be equipped with the following instruments and gauges. (Telltale warning lights in lieu of gauges are not acceptable except as noted):

(A) Speedometer;

(B) Odometer, which will give accrued mileage including tenths of miles;

(C) Voltmeter: A graduated charge and discharge ampmeter compatible with generating capacities is permitted in lieu of or in addition to a voltmeter;

(D) Oil-pressure gauge;

(E) Water temperature gauge;

(F) Fuel gauge;

(G) High beam headlight indicator light;

(H) Air pressure or vacuum gauge according to brake system used: Light indicator or gauge required on vehicle equipped with hydraulic-over hydraulic brake system;

(I) Turn signal indicator light;

(J) Tachometer on type B, C, or D buses. Tachometer is optional on Type A buses;

(K) Glow plug indicator light, where appropriate;

(L) Fog light indicator, if fog lights are installed;

(M) Bus safety light pilot lamps / monitors: Each bus shall be equipped with 2 illuminated pilot lamps, one amber and one red. The placement of these lamps shall be in accordance with other telltale light placement requirements in 49 CFR 571.101 Controls

and Displays. Pilot lamps shall provide an unmistakable indication that the flasher system is operating and an unmistakable indication if any lamp is not operating or the system is not otherwise functioning normally.

(b) All instruments shall be easily accessible for maintenance and repair;

(c) Above instruments and gauges shall be mounted on instrument panel in such a manner that each is clearly visible to and lies within a 140 degree field of vision for a 95th percentile female anthropomorphic dummy while in normal seated position;

(d) Instrument panel shall have lamps of sufficient candlepower to illuminate all instruments and gauges and shift selector indicator for automatic transmission.

(e) All control and indicator lights shall be dimmable except telltale lights. Control and indicator lights may be controlled by one or two dimmer switches.

(39) Insulation:

(a) Ceiling and walls shall be insulated with proper material to deaden sound and to reduce vibration to a minimum.

(b) Thermal insulation that is fire-resistant, non-water absorbing, UL approved, with a minimum R-value of 5.5 shall be installed in the ceiling and walls;

(c) If floor insulation is desired it shall be installed in accordance with the floor section of this rule.

(40) Interior:

(a) Interior of bus shall be free of all projections, including but not limited to luggage/book racks or attendant hand holds, that can cause injury in the event of a collision or rollover.

(b) The ceilings and walls shall have an inner lining.

(c) If ceiling is constructed with lap joints, forward panel shall be lapped by rear panel and exposed edges shall be beaded, hemmed, flanged or otherwise treated to minimize sharp edges;

(d) Buses shall assure noise level taken at the ear of the occupant nearest to the primary vehicle noise source shall not exceed 85 DBA when tested according to the Noise Test Procedure.

(41) Lamps and Signals:

(a) All lamps, signals, and reflectors shall comply with the design and performance requirements of FMVSS No. 108, Lamps, reflective devices, and associated equipment; Oregon Revised Statutes, Chapter 816, Vehicle Equipment: Lights; and Oregon Administrative rules, Chapter 735, Division 108, Lighting Equipment applicable to that type of lamp, signal or reflector.

(b) The following lights shall be installed with any additional requirements listed:

(A) Back-up lamps: The bus shall be equipped with 2 white rear back-up lamps that have a minimum illuminated area of 12 square inches. If back up lamps are placed in the same horizontal line as the tail-stop lamps and turn signal lamps, they shall be to the inside.

(B) Back-up warning alarm: An automatic audible alarm shall be installed on the rear of the bus that complies with SAE 994 Back-Up Alarm Standard specifying a minimum of 97±4db(A).

(C) Bus Safety Lights:

(i) Shall have red and amber flashing lights installed in accordance with SAE Standard J887. Each amber light shall be located near each red signal lamp, at the same level, but closer to the vertical centerline of the bus.

(ii) The area around each lens of the bus safety lights shall be painted black, extending outward a minimum of 3 inches where practicable.

(iii) The front bus safety lights shall be visible either directly or indirectly from inside the bus.

(iv) A separate fuse or circuit breaker, adequate to prevent damage to the system in the event of a short circuit, shall be provided between the power source and flasher system.

(v) The system shall be wired so that the system is activated by a manually operated spring-loaded switch that is clearly labeled and distinguishable from other switches.

(vi) A circuit master switch, if installed, shall be part of the activation switch outlined in subparagraph (v) of this paragraph.

(vii) Buses equipped with power-controlled entrance doors may have an additional spring loaded switch that will activate the red school bus safety lights prior to opening the entrance door or keep the red bus safety lights on after closing the entrance door.

(viii) The flashing mechanism shall be capable of carrying the full current load of the signal system.

(ix) Each lamp shall have a minimum illumination area of 38 square inches, flash a minimum of 60 times per minute, and be clearly visible in direct sunlight from a distance of 500ft along the axis of the vehicle.

(x) The Bus Safety Light System shall operate as follows:

(I) The bus safety light activation switch shall activate the amber safety lights when the entrance door is closed or red safety lights when the entrance door is open;

(II) When amber safety lights are activated, they shall automatically deactivate and the red safety lights shall automatically activate when the entrance door is opened;

(III) Once active, the red safety lights shall automatically deactivate when the entrance door is closed;

(IV) No bus safety lights shall activate when the entrance door is opened without first pressing the bus safety light activation switch;

(V) The amber bus safety lights and red bus safety lights shall not flash at the same time.

(VI) There shall be a canceling switch that will deactivate the bus safety lights and activation sequence if they are accidentally activated or if the driver discovers there is no need to make a stop after activating the switch.

(D) Clearance lamps;

(E) Headlamps;

(F) Identification Lamps;

(G) Fog lamps may be installed:

(i) Fog lamps shall be mounted symmetrically around the front centerline of the bus, below the headlights not less than 12 inches, no more than 30 inches above the ground;

(ii) Fog lamps shall be wired to a separate switch and pilot light and shall only come on when the low beam head lights are on.

(H) Interior dome lamps: Interior lamps shall be provided which will adequately illuminate interior aisles. There shall be at least one interior lamp for every two rows of passenger seats. One or two rear dome lamp(s) shall be wired through a separate switch unless there are less than five rows of seats.

(I) Reflectors;

(J) Side Marker Lamps;

(K) Step well Lamp: A step well lamp shall be provided which will adequately illuminate the entire step well. The lamp circuit shall be wired through the headlamp or clearance lamp system and shall be activated only when the door is opened.

(L) Strobe Lamp: A white flashing strobe lamp may be installed on the longitudinal center of the roof on the rear third of the bus, but no closer than one foot from the rear of the bus.

(i) The lamp shall have a single clear lens emitting light 360 degrees around its vertical axis and may not extend above the roof more than 6-1/2 inches, or exceed maximum legal vehicle height.

(ii) The lamp shall have a separate switch and be wired through the vehicle hazard lamp system. A pilot lamp to indicate when the light is in operation is required.

(M) Tail lamps & Stop lamps: Buses shall be equipped with four combination red tail-stop lamps.

(i) Two combination lamps with a minimum 38 square inches of illuminated area shall be mounted immediately inside of, and in line with, the rear turn signal lamps.

(ii) Two combination lamps with a minimum 12 square inches of illuminated area shall be placed on the rear of the bus between the beltline and the floor line. The horizontal centerline of the lights shall be a maximum of 12 inches above the floor line.

(iii) Stop lamps shall be activated by the service brakes and shall emit a steady light when illuminated.

(N) Turn Signals:

(i) Front signals shall either:

(I) have a minimum illuminated area of 38 square inches; or

(II) be manufacturer's standard front turn signals for Type A.

(ii) Rear signals shall have a minimum illuminated area of 38 square inches and be placed as wide apart as practical with the horizontal centerline a maximum of 12 inches below the rear window.

(iii) Side signals: A turn signal lamp with a minimum of 4 candlepower shall be mounted on each side of the bus at approximately seat level height, located to the rear of the entrance door on the right side, and to the rear of the stop arm on the left side. Side turn signals should be in approximately the same location on each side of the bus. Additional side turn signals may be installed if the horizontal centerline is the same for all side turn signals, and additional signals are in the same approximate location on each side of the bus.

(iv) All turn signal lamps shall be amber in color.

(v) All turn signal lamps shall be independent units and connected to turn signal switch and four-way hazard warning switch that will cause all turn signals to flash simultaneously.

(42) Metal Treatment:

(a) All metal used in construction of bus body shall be zinc- or aluminum-coated or treated by equivalent process before bus is constructed. Included are such items as structural members, inside and outside panels and floor sills; excluded are such items as door handles, grab handles, interior decorative parts and other interior plated parts;

(b) All metal parts that will be painted shall be (in addition to above requirements) chemically cleaned, etched, zinc-phosphate coated and zinc-chromate or epoxy primed or conditioned by equivalent process;

(c) In providing for these requirements, particular attention shall be given lapped surfaces, welded connections of structural members, cut edges, punched or drilled hole areas in sheet metal, closed or box sections, un-vented or un-drained areas and surfaces subjected to abrasion during vehicle operation;

(d) As evidence that above requirements have been met, samples of materials and sections used in construction of bus shall be subjected to a cyclic corrosion testing as outlined in SAE J1563.

(43) Mirrors:

(a) Exterior Mirror Systems:

(A) Bus shall be equipped with mirror systems complying with 49 CFR Part 571, FMVSS 111 as adopted by the National Highway Traffic Safety Administration for December 3, 1993 implementation, plus all applicable standards specified in this rule;

(B) Manufacturer shall certify compliance with mirror and direct/indirect visibility standards listed in the aforementioned FMVSS 111.

(b) Interior Mirror:

(A) Interior mirror shall be either laminated or tempered. Mirror shall be a minimum of 6" x 30". Mirror shall have rounded corners and protected edges;

(B) Type A buses shall be equipped with a mirror that is 6" x 16" or providing at least 96 square inches of flat mirror surface;

(C) Bus seller shall certify compliance with mirror and direct/indirect visibility standards listed in the aforementioned FMVSS 111 and provide a copy to used bus purchasers when certification is not available from manufacturer for all buses manufactured prior to January 1, 1994.

(44) Mounting:

(a) Chassis frame shall support rear body cross member. Bus body shall be attached to chassis frame at each main floor sill, except where chassis components interfere, in such a manner as to prevent shifting or separation of body from chassis under severe operating conditions;

(b) Body front shall be attached and sealed to chassis in such manner as to prevent entry of water, dust or fumes through joint between chassis cowl and body;

(c) When floor is provided by bus body manufacturer, adequate insulating padding shall be placed at all contact points between body and chassis frame. Insulating material shall be approximately 1/4-inch thick and shall be so attached as to prevent movement under severe operating conditions.

(45) Mud Flaps:

(a) Mud flaps or splash aprons are required for rear wheels on all school buses;

(b) Flaps shall be of heavy-duty rubberized material or equivalent and shall extend at least the full width of tires from a point above the center of the tires to a point not more than ten inches above the surface of the highway when such vehicle is empty.

(46) Oil Filter: Oil filter of replaceable element or cartridge type shall be provided and shall be connected by flexible oil lines if it is not built-in or engine mounted design. Oil filter shall have a capacity in accordance with the engine manufacturer's recommendation.

(47) Openings: All openings in floorboard or firewall between chassis and passenger-carrying compartment, such as for gearshift lever and parking brake lever, shall be sealed. Access plates to cover openings shall have adequate gaskets and be fastened securely.

(48) Overall Length: Maximum length for school buses shall be limited to 45 feet.

(49) Overall Width: Overall width of bus shall not exceed 8.5 feet. The mirrors may exceed the maximum allowable width by a distance of not greater than five inches on each side of the vehicle.

(50) Overhang: Body shall be so mounted as to comply with requirements described in chassis weight distribution standard. Body length extending beyond the rear axle shall not exceed three-fourths the length of the vehicle's wheel base per Oregon Vehicle Code.

(51) Passenger Load:

(a) Actual gross vehicle weight (GVW) is the sum of the chassis wet weight, plus the body weight, plus the driver's weight, plus total seated pupil weight:

(A) For purposes of calculation, the driver's weight is 250 pounds;

(B) For purposes of calculation, the pupil weight is 120 pounds per pupil.

(b) Actual gross vehicle weight (GVW) shall not exceed the chassis manufacturer's gross vehicle weight rating (GVWR) or gross axle weight rating (GAWR) for the chassis;

(c) Manufacturer's gross vehicle weight rating and other chassis information shall be furnished by the manufacturer, the manufacturer's representative or seller to the Oregon Department of Education on forms furnished by the department.

(52) Power and Gradeability: Gross vehicle weight (GVW) shall not exceed 165 pounds per net published horsepower of the engine at the manufacturer's recommended maximum number of revolutions per minute.

(53) Power Lift: A power lift may be installed

(a) Vehicle lifts and installations shall comply with the public use lift requirements set forth in 49 CFR 571.403, Platform Lift Systems for Motor Vehicles, and 49 CFR 571.404, Platform Lift Installations in Motor Vehicles. This rule change applies to buses manufactured after December 27, 2004.

(b) Lifting mechanism shall be located on the right side of the bus and be capable of lifting a minimum load of 800 pounds;

(c) When the platform is in the fully upright position, it shall be locked in position mechanically by means other than a support, or lug in the door;

(d) Controls shall be provided that enable the operator to activate the lift mechanism from either inside or outside of the bus. There shall be a means of preventing the lift platform from falling while in operation due to a power failure. If equipped with a control switch flex cord, the cord shall be installed to minimize entanglement with lift mechanism;

(e) Power lifts shall be so equipped that they may be manually raised and lowered in the event of power failure of the power lift mechanism;

(f) Lift travel shall allow the lift platform to rest securely on the ground;

(g) All edges of the platform shall be designed to restrain wheelchair and operator's feet from being entangled during the raising and lowering process;

(h) Lift platform shall have a minimum usable area of 30 inches by 48 inches;

(i) Platform shall be fitted on both sides with full width barriers which extend above the floor line of the lift platform;

(j) A restraining device shall be affixed to the outer edge (curb end) of the platform that will prohibit the wheelchair from rolling off the platform when the lift is in any position other than fully extended to ground or desired platform level. Minimum height of device/barrier shall be four inches;

(k) A self-adjusting, skid resistant plate shall be installed on the outer edge of the platform to minimize the incline from the lift platform to the ground level. This plate, if so designed, may also suffice as the restraining device described in subsection (h) of this section. The lift platform must be skid resistant;

(l) A circuit breaker or fuse shall be installed between power source and lift motor if electrical power is used;

(m) The lift mechanism shall be equipped with adjustable limit switches or bypass valves to prevent excessive pressure from building in the hydraulic system when the platform reaches the full up position or full down position;

(n) Sharp corners or projections of the lift which are likely to cause injury to passengers in the event of a collision or rollover shall be padded with impact absorbing material;

(o) There shall be no exposed areas on lift mechanism or adjacent to lift that could cause injury to children while lift is in motion;

(p) Power unit for lift shall be located so as not to restrict or impair center aisle space or foot and leg room between seats;

(q) If body floor section serves as a portion of the lift platform, the adjacent under-floor areas on three sides shall be closed off with shields when platform is in the lowered position;

(r) Platform shall be confined within the perimeter of the school bus body when not extended, in no way attached to the exterior sides of the bus.

(54) Racks: The installation of any kind of exterior luggage rack outside the bus is prohibited. This does not prohibit enclosed luggage compartments.

(55) Radios and Public Address Systems:

(a) Buses shall be equipped with a public address system having interior and exterior speakers and a switch to separate inside and outside speaker systems.

(b) AM/FM/audio radio may be installed.

(c) Interior speakers mounted in the ceiling panels or side panels shall be either flush mounted or may protrude not more than 1-1/2 inches if the speaker housing is free of any corners or projections which can cause injury by striking with the head or in the event of a collision or rollover. Speakers protruding more than 1-1/2 inches may be mounted in the vertical end panels above the windshield or back windows as long as speakers are free of corners or projections that could cause injury;

(d) Speakers shall not be placed above any aisle or within four feet of the driver's seat back in its rearmost upright position;

(56) Ramps: a ramp may be installed on Type A buses:

(a) Ramp shall utilize a special service entrance located on the right side of the bus that is not less than 30 inches in width;

(b) Ramp shall be of sufficient strength and rigidity to support wheelchair, occupant and attendant. It shall be equipped with protective flange on each longitudinal side to keep wheelchair on ramp;

(c) Floor of ramp shall be covered with nonskid material;

(d) Ramp shall be of weight, and equipped with handle(s), to permit one person to put ramp in place and return it to storage place;

(e) Provisions shall be made to secure ramp to side of bus for use without danger of detachment, and ramp shall be connected to bus at floor level in such manner as to permit easy access of wheels on wheelchair to floor of bus;

(f) Ramp shall be at least 80 inches in length, and width of the ramp shall be adequate to accommodate wheelchairs up to 30 inches wide. Ramp shall be of one piece, or two 40-inch sections hinged to allow for storage;

(g) Dustproof and waterproof enclosed container shall be provided.

(h) Ramp shall not be stored in the passenger compartment.

(57) Retarder System: Retarder system, if installed, shall maintain the speed of the fully loaded school bus at 19.0 MPH on a seven percent grade for 3.6 miles without incurring damage to the retarder or vehicle.

(58) Retroreflective Material and Placement:

(a) Red: when used or required, red retroreflective material shall meet or exceed ASDM D4956 standards for type V super high-intensity sheeting and have a coefficient of retro reflection equal to or greater than:

(A) 120 for an observation angle of 0.2 degrees and a light entrance angle of -4 degrees; and

(B) 72 for an observation angle of 0.2 degrees and a light entrance angle of +30 degrees; and

(C) 28 for an observation angle of 0.5 degrees and a light entrance angle of -4 degrees; and

(D) 13 for an observation angle of 0.5 degrees and a light entrance angle of +30 degrees;

(b) White: when used or required, white retroreflective material shall meet or exceed ASDM D4956 standards for type V super high-intensity sheeting and have a coefficient of retro reflection equal to or greater than:

(A) 700 for an observation angle of 0.2 degrees and a light entrance angle of -4 degrees; and

(B) 400 for an observation angle of 0.2 degrees and a light entrance angle of +30 degrees; and

(C) 160 for an observation angle of 0.5 degrees and a light entrance angle of -4 degrees; and

(D) 75 for an observation angle of 0.5 degrees and a light entrance angle of +30 degrees;

(E) Exception: white retroreflective material on the "unlawful to pass" sign shall meet or exceed ASDM D4956 standards for type I engineering grade sheeting and have a coefficient of retro reflection equal to or greater than:

(i) 70 for an observation angle of 0.2 degrees and a light entrance angle of -4 degrees; and

(ii) 30 for an observation angle of 0.2 degrees and a light entrance angle of +30 degrees; and

(iii) 30 for an observation angle of 0.5 degrees and a light entrance angle of -4 degrees; and

(iv) 15 for an observation angle of 0.5 degrees and a light entrance angle of +30 degrees;

(c) Yellow: when used or required, yellow retroreflective material shall meet or exceed ASDM D4956 standards for type V super high-intensity sheeting and have a coefficient of retro reflection equal to or greater than:

(A) 470 for an observation angle of 0.2 degrees and a light entrance angle of -4 degrees; and

(B) 270 for an observation angle of 0.2 degrees and a light entrance angle of +30 degrees; and

(C) 110 for an observation angle of 0.5 degrees and a light entrance angle of -4 degrees; and

(D) 51 for an observation angle of 0.5 degrees and a light entrance angle of +30 degrees;

(d) All retroreflective material shall maintain at least 50 percent of the coefficient of retro reflection for a minimum of six years.

(e) Bumpers may be marked diagonally 45 degrees down to centerline of pavement with two-inch wide strips of black retroreflective material.

(f) Rub Rails may have retroreflective black material.

(g) The rear of the bus body shall be marked with strips of retroreflective yellow material that is a minimum of 1 inch and a maximum of 2 inches to outline the perimeter of the back of the bus. The horizontal strips shall be placed above the rear windows, and immediately above the bumper. Both horizontal strips shall extend to each rear corner of the bus. The vertical strips shall connect the two horizontal strips.

(h) Each side of the bus shall be marked with yellow retroreflective material that extends for the entire length of the bus body and is either:

(A) A background for the name of the school district identification required in section (35)(c) of this rule that is not less than 6 inches and not more than 12 inches in width; or

(B) A two inch wide strip that is between the beltline and the floor line;

(i) Further retroreflective placement requirements can be found in: Emergency Exits (section 24 of this rule), Identification (section 35 of this rule), and Stop Arm (section 69 of this rule)

(59) Rub Rails:

(a) There shall be one rub rail on each side of bus at, or no more than 8 inches above, the seat cushion level which shall extend from rear side of entrance door completely around bus body (except for emergency door and access panel(s)) to point of curvature near outside cowl on left side;

(b) There shall be one rub rail located 10 inches or less above the floor line which shall cover same longitudinal area as upper rub rail, except at wheel housing, and shall extend only to longitudinal tangent of right and left rear corners;

(c) All rub rails shall be attached at each body post and all other upright structural members;

(d) All rub rails shall be four inches or more in width, shall be of 16-gauge steel, suitable material of equivalent strength, and shall be constructed in corrugated or ribbed fashion;

(e) All rub rails shall be applied to the outside body or outside body posts. Pressed-in or snap-on rub rails do not satisfy this requirement. For buses using rear luggage or engine compartment, rub rails need not extend around rear corners.

(f) The bottom edge of the body side skirts shall be stiffened by application of a rub rail, or the edge may be stiffened by providing a flange or other stiffeners.

(60) Sanders and other traction assisting devices:

(a) Sanders may be installed. When installed, sanders shall:

(A) Be of hopper cartridge-valve type;

(B) Have metal hopper with all interior surfaces treated to prevent condensation of moisture;

(C) Be of at least 100 pound (grit) capacity;

(D) Have cover on filler opening of hopper, which screws into place, sealing unit airtight;

(E) Have discharge tubes extending to front of each rear wheel under fender;

(F) Have no-clogging discharge tubes with slush-proof, non-freezing rubber nozzles;

(G) Be operated by electric switch with telltale light mounted on instrument panel;

(H) Be exclusively driver-controlled.

(b) Automatic traction chains may be installed.

(61) Seat Belts:

(a) Driver's seat belt: A Type 2 seat belt shall be provided for the driver, a driver's seat with an integrated Type 2 seat belt may be substituted. Each belt section shall be booted to keep belt and the button or buckle type latch off floor when not in use. Shoulder belt assemblies on Type B, C, and D buses shall provide for a height adjustment of at least four inches at its upper point of attachment to the bus. Belt shall be anchored or guided in a manner at the seat frame to prevent the driver from sliding sideways when belt is in use. Locking retractors may be either an ELR (Emergency Locking Retractor) or an ALR (Automatic Locking Retractor). All ALR equipped buses received after July 1, 1989, must include an approved anti-cinching device;

(b) Passenger seat belts:

(A) On buses manufactured prior to October 21, 2011 with a GVWR of more than 10,000 pounds, Type 1 seat belts or Type 2 seat belts may be installed. The attachments, belts and installation shall meet the requirements of:

(i) 49 CFR 571.208 Occupant Crash Protection, 49 CFR 571.209 Seat Belt Assemblies, and 49 CFR 571.210 Seat Belt Assembly Anchorages, as they apply to school buses with a GVWR of 10,000 pounds or less; or

(ii) The voluntary Type 1 or Type 2 installation requirements outlined in 49 CFR 571.222 School Bus Passenger Seating and Crash Protection that take effect on October 21, 2011.

(B) On buses manufactured on or after October 21, 2011 with a GVWR of more than 10,000 pounds, Type 2 seat belts may be installed. Standards for voluntary installation of seat belts are outlined in 49 CFR 571.222 School Bus Passengers Seating and Crash Protection.

(C) On buses with a GVWR of 10,000 pounds or less, mandatory seat belt standards are outlined in 49 CFR 571.222 School Bus Passenger Seating and Crash Protection.

(62) Seats and Crash Barriers:

(a) Driver's seat shall be so located in relationship to the steering wheel that the driver may assume a natural position while driving, have a clear view of the road, and sufficient leg room to operate safely and effectively the brake and clutch pedals and accelerator without cramping or interference. Minimum distance between steering wheel and back rest of driver's seat shall be 11 inches. Driver's seat shall have a fore-and-aft adjustment of not less than four inches and shall on Type B, C, and D buses be capable of being raised and lowered at least three inches and shall be strongly attached to comply with acceptable installation procedures:

(A) For type B, C, and D buses, driver's seat shall be a high back (suspension) seat with a minimum seat back adjustment of 15 degrees, not requiring the use of tools, and with a head restraint to accommodate a 95th percentile female anthropomorphic dummy as defined in FMVSS 208. The driver's seat shall be secured with nuts, bolts, and washers or flanged-headed nuts. Type A buses may use manufacture's standard driver's seat.

(B) Driver's seat positioning and range of adjustment shall be designed to accommodate comfortable actuation of the foot control pedal by 95 percent of the adult female population.

(b) Passenger Seats: In addition to the requirements of 49 CFR 571.222 School Bus Passenger Seating and Crash Protection, all passenger seats have the following requirements:

(A) All seats shall have minimum depth of 15 inches;

(B) In determining seating capacity of bus, the minimum allowable ramp width shall be 13 inches;

(C) Seat, seat back cushion and crash barrier shall be covered with a material having a minimum 42-ounce finished weight, 54-inch width and finished vinyl coating of 1.06 broken twill, or other material with equal tensile strength, tear strength, seam strength, adhesion strength, resistance to abrasion, resistance to cold, and flex separation. Material shall meet or exceed the criteria contained in the School Bus Seat Upholstery Fire Block Test. (see Appendix);

(D) All seats shall be forward facing and shall be securely fastened to that part(s) of bus that support them with a nut-and-bolt type of fastener. Each seat leg shall be secured to the floor by a minimum of two nut-and-bolt type fasteners of at least grade 5 SAE strength. Sheet metal screw-type fasteners without a nut are not acceptable, except in areas where it is not possible to install a nut-and-bolt type fastener. Seats may be track mounted;

(E) If flexible track mounted seating is installed, the manufacturer shall supply minimum and maximum seat spacing dimensions on a label permanently affixed to the bus to notify end user of seat installation requirements.

(F) No bus shall be equipped with jump seats or portable seats. Flip-up seats at side emergency exit doors are allowed;

(G) Seat spacing shall not be less than 24 inches between the front of the back of each seat and the rear of the back of the seat immediately ahead, measured at the center of the seat. The seat upholstery may be placed against the seat cushion padding, but without compressing the padding, before the measurement is taken.

(63) Shock Absorbers: Bus shall be equipped with front and rear double-acting shock absorbers compatible with manufacturer's rated axle capacity at each wheel location.

(64) Side skirts shall be 2 inches above the horizontal line between the center of the front spindle to the center of the rear axle,

or lower. Measurement shall apply to an unloaded school bus located on a flat, level surface.

(65) Special Service Entrance:

(a) Bus bodies may have a special service entrance constructed in the body to accommodate a power lift;

(b) The special service entrance shall be at any convenient point on the right of the bus and far enough to the rear to prevent the door(s) from obstructing the right front regular service door when open;

(c) The opening may extend below the floor through the bottom of the body skirt. If such an opening is used, reinforcements shall be installed at the front and rear of the floor opening to support the floor and give the same strength as other floor openings;

(d) Entrance shall be of sufficient width and depth to accommodate various mechanical lifts and related accessories as well as the lifting platform. The minimum clear opening width shall be adequate to accommodate the minimum platform defined in section (10) of this rule;

(e) Door posts and headers from entrance shall be reinforced sufficiently to provide support and strength equivalent to the areas of the side of the bus not used for service doors;

(f) A drip molding shall be installed above the opening to effectively divert water from entrance;

(g) A pad shall be placed at the top edge of the special service entrance that is at least three inches wide and one inch thick and shall extend the full width of the door opening.

(h) A single door or double door may be used for special service entrance;

(i) A single door shall be hinged to the forward side of the entrance. If double doors are used, the system shall be designed to prevent the door(s) from being blown open by the aerodynamic forces created by the forward motion of the bus, and/or shall incorporate a safety mechanism to provide secondary protection should the primary latching mechanism(s) fail;

(j) All doors shall open outwardly;

(k) All doors shall be weather sealed;

