



THE OREGON STATE BOARD OF EDUCATION

Provide leadership and vision for Oregon's Public Schools and districts by enacting equitable policies and promoting educational practices that lead directly to the educational and life success of students.

AGENDA

Regular Meeting
Public Service Building 251 A/B
255 Capitol Street NE
Salem, OR 97310
Thursday, October 17, 2019

State Board of Education meetings comply with open meeting laws and accessibility requirements. Requests for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be given to [Lisa Pinheiro](#) at 503-910-8135, at least 48 hours before the meeting. You can access all board materials on our [Boardbook](#) page. Staff respectfully request that you submit email copies of written materials before or after your testimony.

Please note: all times are approximate.

1. **Call to Order**
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 - B. **Roll Call**
 - C. **Board Member Reports**
 - D. **Director's Report**
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8. Sexual Harassment Training
 Garrett Klever, Human Resources

9. Adjourn

Dear Director Gill and members of the State Board of Education:

On behalf of the Oregon Association for Talented and Gifted (OATAG), I wish to submit public testimony concerning the proposed amendments to OAR 581-021-0570 which will receive its first reading at your meeting on Thursday, September 19, 2019. This amendment was described as a "Rules Cleanup."

OATAG agrees that the rule needs to be cleaned up. However, we are concerned because the draft removes the clause that says appellants may submit their appeals to the Deputy Superintendent of Public Instruction. Removing this information leaves appellants without information on where to submit their complaints. The proposed new rule just says that appeals should be submitted "to the Department of Education."

Most parents and community members find the Oregon Department of Education to be a bewildering maze. The lack of a designated recipient in the rule makes it more likely that a appeals will be sent to the wrong person.

The Department has recently done an admirable job of posting information concerning complaints and appeals on its home page but we don't think every appellant will know to search for the Department's home page. We ourselves have experience with trying to figure out where to send mail to Department staff and having it disappear, go to the wrong person, or not receive any reply. Moreover, the Department has recently removed the names of contact people and phone numbers from most or all of its internal web pages. If appeals are sent to someone who forwards them incorrectly or is out of the office and does not forward them at all, there may be significant delays before the correct department receives it. The sender might not even realize that the appeal went to the wrong person. In the worst case, the appeal may be lost entirely.

As there is a timeline for the Department to respond to appeals, even a delay of a few days may cause problems for either the Department or the district that is subject to the appeal. Moreover, a few years ago, Portland Public Schools posted a complaint procedure that directed complainants to submit their complaint through a form that, through an oversight, had been removed from the district website.

We believe the rule itself should include the title of a staff person charged with receiving appeals and a street address for appeals submitted--as the rule states--in person or by mail.

If that is not practicable, would it at least be possible to state in the rule that appeals should be submitted to the individual designated (by title) on the Department of Education Home Page to receive them, or through the form on the Department's home page? And then to ensure that the Department's home page actually continues to provide a link to this information?

Thank you very much,

Sincerely yours,

Margaret DeLacy, PhD

President
Oregon Association for Talented and Gifted
Box 1703
Beaverton OR
97075

Hi Carmen, Colt, Craig -- and State Board

I finally got the message. I watched the webinar on discriminatory harassment that OSAA put on a couple of weeks ago. KT (OSAA) and Karin (ODE) did a dynamite job! (And you know that I would say something if they were at all off base.)

However, during most of the webinar, which they had advertised to the entire state, **there were 3 people in attendance**--including me.

For a long time I have been thinking I am an abject failure because I can't get school leaders to listen to me. This is even though colleagues of mine in other states have also told me they are having no success whatsoever getting school leaders to listen to them either.

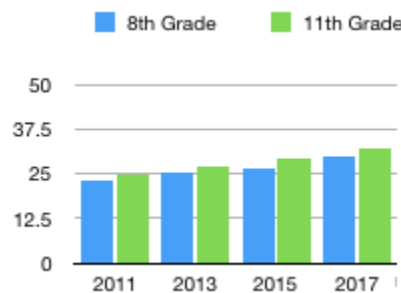
The message: school leaders do not give a damn about bullying and harassment.

I am going to do one more report because it is in process. Then I am giving up. I can tell you why what schools are doing is not working and have some very well-grounded recommendations --grounded both in research and the laws--for how they might make positive change. But I can't accomplish any positive change if this is the woeful level of interest in this concern from school leaders. The work I have been doing for the last decade is not of interest. Got the message.

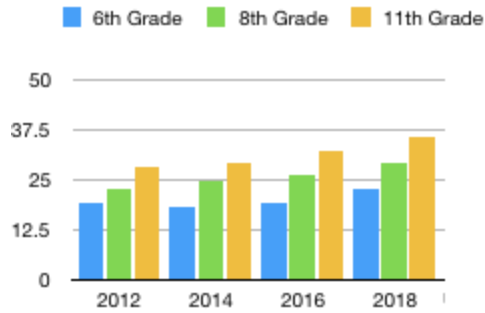
However, I strongly suggest you look at the data below. This is for the last report I am doing. This shows a steady increase in the mental health concerns of Oregon students. I put together some charts from the Oregon Healthy Teen and Student Wellness Survey on 2 questions - which are on both surveys.

Depression. During the past 12 months, did you ever feel so sad or hopeless every day for two weeks or more in a row that you stopped doing some usual activities? (yes)

OHT

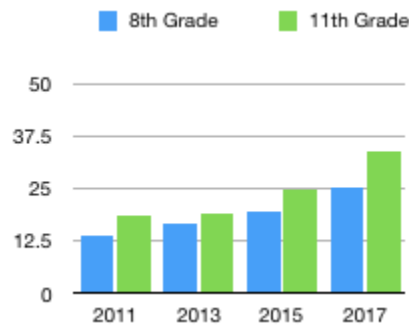


SWS

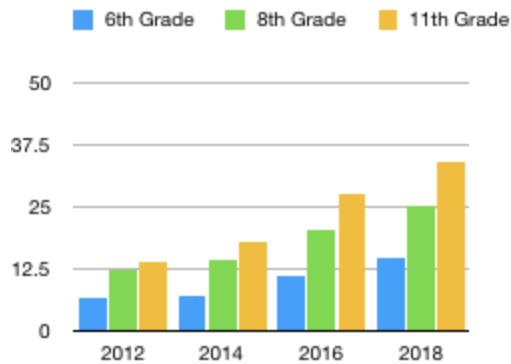


Mental Health. Would you say that in general your emotional and mental health is (combining “fair” and “poor”)

OHT



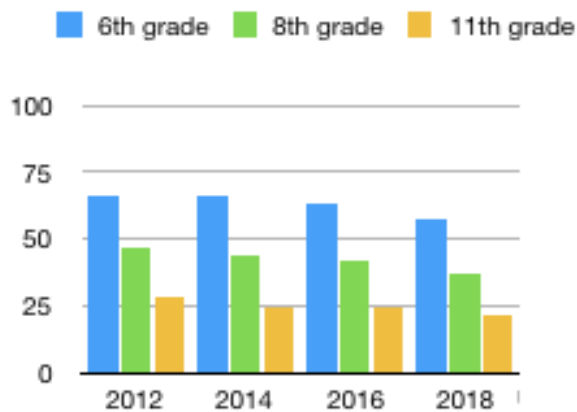
SWS



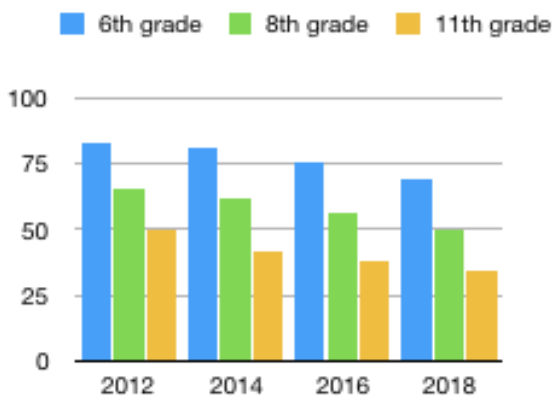
This data is screaming that the mental health of young people is a huge concern. Is anyone asking further questions to figure out what the concerns are? Why the incredible increase? **It is not possible to fix what is not understood.**

I personally think that this is tied to Common Core and the Stupid Unbalanced Tests. Look at the data from these two questions on SWS that provide more insight into this.

I feel that schoolwork is meaningful and important



I think the things I am learning in school are going to be important later in life.



How you are going to increase graduation when only 22% of 11th grade students think that schoolwork is meaningful and important and only 34% think that what they are learning will be important later in life is beyond me.

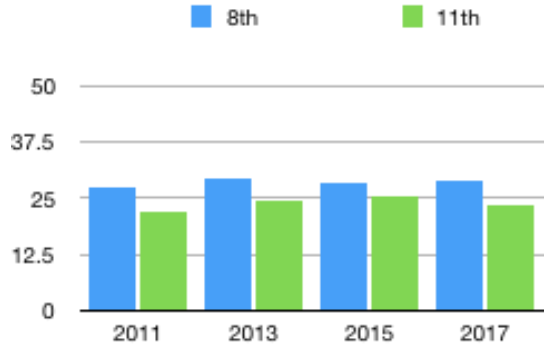
Anyway, along with the steady increase in mental health concerns is a steady decline in interest in what students are learning. Other factors are also likely involved.

Supposedly there has been a huge increase in interest in school in trauma informed practices -- conveniently ignoring the trauma that is associated with bullying. The ACE screening is focused solely on family concerns. So what is happening in school is generally not considered.

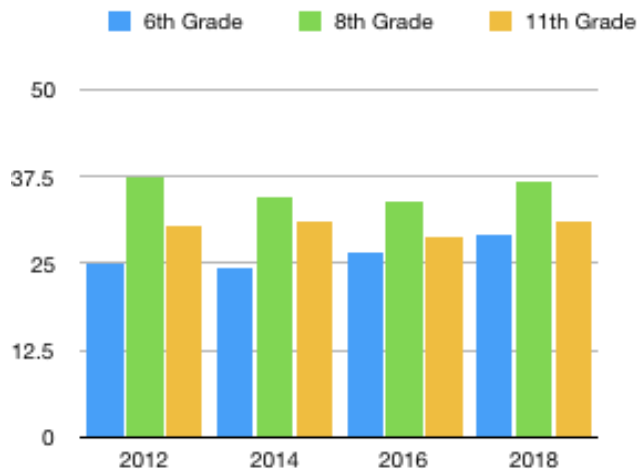
However, it is very clear from the research that the foundation for trauma informed practices is positive relationships with a caring adult. There is a question on both OHT and SWS that asks about this.

There is a teacher or other staff member who really cares about me (combining “a little true” and “not at all true”)

OHT



SWS



There has been no improvement in staff-student relationships since 2011 (actually even earlier). Roughly 1 in 4 Oregon students does not think any school staff member really cares about them.

The whole purpose of collecting survey data should be to use that data to make informed decisions. This factor, which is at the heart of trauma informed practices, is -- or should be -- relatively easy to address. Tell staff that their highest priority should be on positive relations with students -- NOT the blasted test scores!

This is the situation that needs to be changed NOW! In an era with increasing concerns of the mental health of our students, their mental health should be the priority -- not the school work that they have figured out is not meaningful and important anyway.

Best,

Nancy



Nancy Willard, M.S., J.D., Director
Website: <http://embracecivility.org>
Email: nwillard@embracecivility.org
Cell: 541-556-1145

I'm wondering why Oregon hasn't implemented Mental Health Education in schools yet. Oregon citizens are so ignorant and uneducated on Mental Health and it is something that greatly affects our state. If young people could learn about it and how to manage their own mental health or heal any past trauma before adulthood we would have so many less individuals needing help from the state. It needs to be appropriate and accurate mental health education education though. Not the kind that wrongly convinces people that their brains are just damaged and chemically imbalanced giving them the idea pharmaceutical drugs are the only option. This is far from the truth. Every mental health issue is a valid response to actual events that have happened to people or experiences they had in the past that has altered their brain for survival. There is currently no way to measure chemicals in the brain when it comes to any type of mental health illness. They can see differences in the brains of Schizophrenics but they can't measure chemicals. Trauma is at the root of most of our issues here. It why we have so many people with mental health issues and so many homeless. Please do something to prevent our youth from repeating history and continuing cycles of trauma and abuse passed off as culture.

Hello

My name is Terry Owens, I'm writing you this letter as a concerned father. My children have been dealing with the racism from their first day at willamina high School. Hailey and Jordan both have had to endure racism and harassment from other students for over a complete school year. Now they are feeling the same biasness from teacher's. I have called Mr. France to express my concern about the safety of Hailey and Jordan while in his care. My children do not feel safe in the school. There are kids that walk around campus wearing confederate flag attire and even a group of kids that identify themselves as white supremacists. Both Mr. France and Mrs. Zimbrick acknowledge knowing of this group of kids. I have voiced my concerns to Mr. France and also the school superintendent Mrs. Zimbrick still the harassment continues. Teacher's are voicing personal opinions about black lives matter to my daughter in history class. This made my daughter feel singled out because Hailey is the only black girl in class. My son Jordan asked if he could go into options program. This program allows kids to do their work away from other kids. The harassment continued with Hailey also, and it shows in both their grades. Now! I have been forced to remove my children from school and put them on home studies, because I fear for their safety. Hailey and Jordan are allowed to go to school one day a week to get help. Jordan went to school to do work on the computer, because we don't have a computer at home, so they have to do work on cell phones. I then receive a call from a Mr. Baldwin telling me that Jordan was being disruptive and he and Hailey was no longer allowed to work on their school work without first making an appointment. Why are they focusing on Jordan and Hailey, but not the kids that identify with white nationalism and calling them niggers and trying to cause them bodily harm. My kids are victims. My question is why are they being punished, victimized daily while trying to get education.

I have spoken to school officials and continuously voiced my concerns for the safety of my Hailey and Jordan. I spoke with a Mr. Cornwall from the department of education and he and Mrs. Zimbrick do not intend to address these issues until the next school year some time in September, October or November. My question is what are my kids to do about their education. For this school year? I'm in the position now that I need to reach out for help. I went to a meeting with Winston Cornwall and the remedy for my kids to return to school is they have to be isolated from other kids. Not allowed to participate must go and sit in office until class returns. I have had meetings with superintendent Mrs. Zimbrick, also spoke with principal Mr. France and the school counselor, yet the plan is to lock my kids in a room all day. School officials want to lock my kids in a room, because kids are calling them niggers.

02/22/2018 I've heard nothing from school concerning safety and continued education. Jordan sent Heather Hue an email saying he needed help with a math assignment. Heather Hue responded with an appointment and gave him 2 options for that day. Willamina school officials are doing nothing to curb the bias and mistreatment of my children. I can't think of any other reason this is happening to my children, but because of the color of their skin. Hailey and Jordan deserve to be protected and treated fairly while attending school.

School has supplied tablets. Not other contact or assistance.

I received this letter on 05/29/2018

This is retaliation from my numerous complaints to school officials. Now I will have to move to another town or keep my kids on home school.



October 16, 2019

Greetings Director Gill and members of the State Board of Education,

Thank you for the opportunity to provide public comment regarding the Student Success Act, and the critical role that community-based organizations play in education partnerships as we work collectively to change the narrative of Oregon students who are historically underserved. With equity as the driving vision behind this legislation, there is great opportunity for schools to increase collaboration with nonprofit organizations whose vision, mission, and programs explicitly acknowledge and work to dismantle issues of race, class, gender, gender identity and other barriers that students must navigate in order to experience success.

Governor Brown is quoted in saying, “the Student Success Act marks a turning point for education in Oregon. We can finally invest in an education system that will ensure every single student in our state is on a path to realizing their dreams for the future”. Efforts to ensure every single student in our state is on the path that leads them to their dreams cannot be achieved without the voice of community; of nondominant families, social service and nonprofit organizations, mosques, churches, and local industry (to name a few). At In4All, community mobilization is at the heart of our elementary, middle, and high school programs where educators, industry professionals, and student board members collaborate to co-create the hands-on learning experiences that we bring to students who are historically underserved. Nonprofits like ours are critical to the fifth priority outlined in the Student Investment Account Engagement Toolkit; strengthening partnerships.

As a nonprofit partner bringing programming to 4,500 students in eight school districts this school-year, I am curious about the extent to which community-based organizations like mine will be represented in the community conversations that inform each district’s needs assessment. I am hopeful that district plans to strengthen partnerships will also represent the voices of community-based organizations who are uniquely positioned to provide demonstrated support of the students named as the priority focus of this legislation. If we are going to see different outcomes for students who have experienced success disproportionate rates than their peers – we must diversify the circle of influence and disrupt the structural practices that perpetuate inequality through parity. I and my peers would be honored if our work and our voices were recognized as valuable in Oregon’s pursuit of success for every student.

My best,

A handwritten signature in black ink that reads "E. Philippi".

Elaine Charpentier Philippi
Executive Director

Minutes of Regular Meeting

The Board of Trustees Oregon State Board of Education

A Regular Meeting of the Board of Trustees of Oregon State Board of Education was held Thursday, September 19, 2019, beginning at 9:15 AM in the Public Service Building 251 A/B.

Present: Anthony Veliz, Jerry Colonna, George Russell, Alyssa Nestler, Gustavo Balderas, Kimberly Howard, Guadalupe Martinez Zapata, Lauren Nguyen, Cheri Helt (on the phone)

Staff: Colt Gill, Zoe Larmer, Donna Newbeck

1. **Call to Order**

Time: 9:15 AM

Anthony Veliz welcomed everyone to the meeting.

A. **Celebration of Student Success**

B. **Roll Call**

C. **Board Member Reports**

D. **Director's Report**

Break

2. **Public Comment**

Time: 10:00 AM

A. **Written Public Comment Received**

3. **Consent Agenda**

Time: 10:20 AM

A. **Meeting Minutes from June 20th, 2019**

B. **Meeting Minutes from Board Retreat August 14th & 15th, 2019**

C. **Administrative Rules Update**

Amend: 581-017-0010, -0020, -0215, -0301, -0306, -0312, -0315, -0318, -0330, -0333, -0335, -0347, -0441

Amend: 581-018-0010, -0020, -0125, -0265, -0325, -0336, -0386, -0509, -0529, -0575, -0590

Presenter: Cody Sibley & Emily Nazarov, Director's Office

- The chair asked for a motion to approve the Consent Agenda.
 - Director George Russell moved to approve the Consent Agenda.
 - Director Kimberly Howard seconded.
 - Discussion: None
 - All in favor: Anthony Veliz, Kimberly Howard, George Russell, Jerry Colonna, Guadalupe Martínez Zapata.
 - Opposed: None

- Excused: None

Motion to approve the Consent Agenda was approved

4. First Readings

Time: 10:25 AM

A. Policy & Procedure Manual Updates (Written Report Only)

B. Staff Docket Forms (Written Report Only)

C. Administrative Rules Update (Written Report Only)

Repeal: 581-021-0059

Amend: 581-021-0570

Presenter: Cody Sibley & Emily Nazarov, Director's Office

D. Restraint & Seclusion Rules

Repeal: 581-021-0559

Amend: 581-021-0550, -0553, -0556, -0563, -0566

Adopt: 581-022-2267

Presenter: Lisa Bateman, Office of Student Services & Stacey Guise, Director's Office

E. Future Farmers of America Summer Duty Extended Contract Grants

Adopt: 581-0-060117, 581-017-0604, 581-017-0607, 581-017-0610, 581-017-0613, 581-017-0616

Presenter: Reynold Gardner & Laura Foley, Office of Teaching, Learning & Assessment

F. Oregon School Library Guidelines Revision

Presenter: Tina Roberts & Alexa Pearson, Office of Teaching, Learning & Assessment

Laurie Nordahl & Susan Stone, Teacher Librarians

5. Adoptions

Time: 11:15 AM

A. Farm to School Rules (TEMPORARY RULES)

Presenter: Rick Sherman & Matt Barber, Office of Student Services

- The chair asked for a motion to approve the Farm to School Rules (TEMPORARY RULES).
 - Director George Russell moved to approve the Consent Agenda.
 - Director Guadalupe Martinez Zapata seconded.
 - Discussion: None
 - All in favor: Anthony Veliz, Kimberly Howard, George Russell, Jerry Colonna, Guadalupe Martinez Zapata.
 - Opposed: None
 - Excused:

• **Motion to approve the Farm to School Rules (TEMPORARY RULES) was approved.**

6. Break for Lunch

Time: 12:15 PM

7. First Readings

Time: 1:15 PM

A. Educator Advancement Council Rules (PERMANENT)

Adopt: 581-012-0001, -0003, -0005, -0007, -0009, -0011, -0013, -0015, -0017, -0019

Presenter: Cheryl Meyers, Educator Advancement Council

8. Informational Reports

Time: 1:00 PM

A. State Sponsored Charter School Update

Presenter: Kate Pattison, Director's Office

I. The Ivy School

Presenter: Nikki Jones, Director, The Ivy School

II. Eagle Charter School

Presenter: Marie Ballance, Director, Eagle Charter School

B. Overview of Funding Formulas Related to the Student Success Act

Presenter: Michael Wiltfong & Rick Crager, Office of Finance, Information & Technology

9. Adjourn

Time: 3:00 PM

Oregon State Board of Education

October 17, 2019

AGENDA ITEM: 3.B

<p>SUBJECT: Administrative Rules Updates STAFF NAME & OFFICE: Cody Sibley & Emily Nazarov, Director’s Office</p> <p>The Oregon Department of Education is undergoing an effort to ensure administrative rules are consistent with current laws & policies. The Model Program for Disruptive Students OAR references a program that no longer exists and therefore needs to be repealed. The complaint procedure OAR needs to be updated to comply with current law and practices.</p> <p><input type="checkbox"/> New Rule <input checked="" type="checkbox"/> Amend Existing Rule <input checked="" type="checkbox"/> Repeal Rule</p>	<p><input type="checkbox"/> First Reading <input type="checkbox"/> Presentation <input type="checkbox"/> No Presentation</p> <p><input checked="" type="checkbox"/> Action <input type="checkbox"/> Temp Rule <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> No Presentation</p>
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BACKGROUND

The Model Program for Disruptive Students was a two-year pilot program for districts from 1998-2000. The Oregon Department of Education has since discontinued this program, so this OAR needs to be repealed.

The complaint procedure OAR described the procedure for individuals or organizations to file complaint appeals to the Department. Section (2) stated that individuals may file with the Deputy Superintendent of Public Instruction. However, in practice, individuals file with the Department. This language is being amended to reflect current practices.

SUMMARY OF PREVIOUS BOARD ACTION

The Board received these rule updates as an informational first read at the Sept. 2019 board meeting.

HAS THE RULE CHANGED SINCE LAST BOARD MEETING?

- N/A; first read—hasn’t been before board
 No; same as last month
 Yes – As follows:

POLICY ISSUE OR CONCERNS

These rules amendments clean up and further clarifies ODE’s responsibilities. Because the pilot program was discontinued, this rule is no longer relevant. Because individuals submit complaint appeals to the Department and not director, that language is not relevant to current practices.

We received one public comment on the proposed revisions to OAR 581-021-0570 from the Oregon Association for Talented and Gifted, citing that the removal of the phrase “to the Deputy Superintendent of public education program” in section (2) could create confusion for parents wishing

Oregon State Board of Education

October 17, 2019

AGENDA ITEM: 3.B

to submit complaints appeals to ODE. As a solution, they requested that add language creating a specific designee for receiving complaint appeals.

After careful consideration, ODE has decided not to incorporate their suggestion in the final version of the OAR for the following reasons:

1. This rule amendment does not change how complaints are received and submitted in practice. Rather, this rule is being amended to reflect the process that ODE and the general public already follow for receiving and sending complaint appeals.
2. Designating a single person to receive complaint appeals would be a difficult policy implementation that would have adverse equity and efficiency consequences. Currently, more than one person receives complaint appeals and responds accordingly. Designating one person to receive these complaint appeals would mean that parents, many of whom have some of the most historically underserved students in state, would not be able to receive a decision in a timely manner, since that one person would have an increased work load.

While the Department can have conversations over the more effective ways to receive and handle complaint appeals, that sort of conversation would warrant its own docket and OAR discussion. The purpose of this Administrative Rules Update docket is to align administrative rules with current practices and law. A policy shift, as the Oregon Association for Talented and Gifted suggested, would be inappropriate for this sort of docket.

EQUITY IMPACT ANALYSIS

While the pilot program was discontinued, communities of color and historically underserved communities have typically been labeled as “disruptive.” Repealing this OAR is consistent with the Department’s commitment to equity and with its equity statement.

Changes to the complaint procedure rule should not adversely impact historically underserved communities.

FISCAL ANALYSIS

No fiscal impact

EFFECT OF A “YES” OR “NO” VOTE

Adopting these OAR changes would allow the Department’s rules to be consistent with current practices and policies. Failure to adopt these OAR changes would create inconsistencies, which may be confusing to districts.

STAFF RECOMMENDATION

Approve Approve next month No recommendation at this time
Prompted by: State law changes Federal law changes other

Oregon State Board of Education

October 17, 2019

AGENDA ITEM: 3.B

ATTACHMENTS

Attachment 1:

Administrative Rules Updates Final OARs

Attachment 2:

Rules Update Public Comment

Administrative Rules Updates Final Version

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.~~

~~Statutory/Other Authority:~~

~~ORS 326.051~~

~~Statutory/Other Implemented:~~

~~Ch. 613~~

~~Sec 1 & 2~~

~~1997 OL~~

581-021-0570

Complaint Procedure

(1) An organization or an individual may file a complaint alleging that a public education program is violating or has violated a provision of ORS 339.285 to 339.303 or OAR 581-021-0550 to 581-021-0566. If the public education program is a school district, the organization or individual and the school district shall follow the school district's complaint procedure established under OAR 581-022-2370.

(2) A complainant may appeal a final decision by a school district ~~to the Deputy Superintendent public education program~~ to the Department of Education as provided in ~~OAR 581-002-0001~~ OAR 581-002-0001 to OAR 581-002-0023 by:

(a) Mailing a complaint appeal to the Department of Education; or

[\(b\) Submitting a complaint appeal through the Department of Education's website.-](#)

Statutory/Other Authority:

ORS 339.303

Statutory/Other Implemented:

ORS 339.285 – 339.303

Dear Ms. Donovan

On behalf of the Oregon Association for Talented and Gifted, I wish to submit public testimony concerning the proposed amendments to OAR 581-021-0570, which establishes a process for education appeals. This amendment was described as a "Rules Cleanup."

We agree that the rule needs to be cleaned up. However, we are concerned because the draft removes the clause that says appellants may submit their appeals to the Deputy Superintendent of Public Instruction. Removing this information leaves appellants without information on where to submit their complaints. The proposed new rule just says that appeals should be submitted "to the Department of Education."

Most parents and community members find the Oregon Department of Education to be a bewildering maze. The lack of a designated recipient in the rule makes it more likely that a complaint will be sent to the wrong person

The Department has recently done an admirable job of posting critical information concerning complaints and appeals on its home page but some appellants will not know to search for the Department's home page. We ourselves have experience with trying to figure out where to send mail to Department staff and having it disappear, go to the wrong person, or not receive any reply. If appeals are sent to someone who forwards them incorrectly or is out of the office and does not forward them at all, there may be significant delays before the correct department receives it. The appellant might not even realize that the appeal went to the wrong person. In the worst case, the complaint may be lost entirely.

As there is a timeline for the Department to respond to appeals, even a delay of a few days may cause problems for either the Department or the district that is subject to the appeal. Moreover, a few years ago, Portland Public Schools posted a complaint procedure that directed complainants to submit their complaint through a form that, through an oversight, had been removed from the district website.

We believe it is best to designate in the rule itself the title of a staff person charged with receiving appeals and to include a street address for appeals submitted--as the rule states--in person or by mail.

If that is not practicable, would it at least be possible to state in the rule that appeals should be submitted to the individual designated (by title) on the Department of Education Home Page to receive them, or through the form on the district's home page? And then to ensure that the Department's home page actually continues to provide a link to this information?

Thank you very much,

Sincerely yours,

Margaret DeLacy, PhD

President

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"DRAFT AMENDMENT

(2) A complainant may appeal a final decision by a school district to the {*-Deputy Superintendent public education program*} to the Department of Education as provided in OAR 581-002-0001 OAR 581-002-0001 to OAR 581-002-0023 "

Oregon Department of Education

Chapter 581

Division 2

ACCOUNTABILITY REPORTING ADVISORY COMMITTEE

581-002-0005

Acceptance of Appeal

A complainant may appeal a final decision of a complaint described in OAR 581-002-0003 if the appeal meets the following criteria:

(1)(a) Except as provided in paragraph (b) of this subsection, the appeal must be from a final decision by a district. A decision is a final decision by a district if:

(A) The complainant has exhausted the district's complaint process except as otherwise allowed by statute;

(B) In a complaint process with more than one step, the district fails to render a written decision within 30 days of the submission of the complaint at any step, unless the district and complainant have agreed in writing to a longer time period for that step; or

(C) The district fails to resolve the complaint within 90 days of the initial filing of the complaint, regardless of the number of steps in the district complaint process, unless the district and complainant have agreed in writing to a longer time period.

(b) The appeal may include a complaint alleging a violation of ORS 659.852 (Retaliation) if the complainant alleges that retaliation occurred in response to a complaint for which the complainant received a final decision as described in paragraph (a) of this subsection.

(2) The appeal must be received by the department no later than:

- (a) One year after the date of the decision by the district resolving the complaint; or
 - (b) If the district fails to resolve the complaint, no later than two years after the date on which the complainant first filed the complaint with the district.
- (3)(a) The complaint upon which the appeal is based must have been initially filed with the district by the later of the following two dates:
- (A) The date occurring two years after the date on which the alleged violation or unlawful incident occurred or on which the complainant discovered the alleged violation or unlawful incident; or
 - (B) The date occurring one year after the date on which the affected student graduated from, moved away from, or otherwise left the district.
- (b) For purposes of paragraph (a)(A) of this subsection, if the alleged violation or unlawful incident is of a continuing nature, the date on which the alleged violation or unlawful incident occurred is the most recent date on which the alleged violation or unlawful incident occurred.
- (4)(a) The appeal must:
- (A) Be in writing;
 - (B) Be submitted in person, by mail, or electronically; and
 - (C) Contain:
 - (i) The name of the person filing the appeal;
 - (ii) If the person filing the appeal has a phone number, address, or email address, the person's phone number, address, or email address;
 - (iii) If the person filing the appeal is filing the appeal on behalf of a student, the name of the student;
 - (iv) A statement of the facts upon which the appeal is based; and
 - (v) Other information requested by the department.
 - (b) The Director of the Oregon Department of Education may for good cause waive the requirement described in paragraph (a)(A) of this subsection.

Statutory/Other Authority: ORS 326.051, ORS 339.303 & ORS 659.850 to 659.855
Statutes/Other Implemented: ORS 339.303, ORS 659.850 to 659.855 & ORS 339.285 to 339.303

History:

[ODE 11-2019, adopt filed 03/25/2019, effective 03/25/2019](#)

Oregon Department of Education

Oregon State Board of Education Policy & Procedure Manual

2019 Draft

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Section A: Policies Required by Statute, Rule or Directive

Mission, Vision & Values - Policy #1

Mission: Provide leadership and vision for Oregon’s public school and districts by enacting equitable policies and promoting educational practices that lead directly to the educational and life success of every student.

Vision: The Oregon State Board of Education will work collaboratively and inclusively with stakeholders to develop and sustain a public education system that empowers every student to reach their full potential.

Values:

EQUITY: We will ensure in words and actions that every student has access to the resources and supports they need to thrive in school. We will explicitly work toward an education system that is culturally responsive, sustaining, eliminates barriers, and is relevant to Oregon’s diverse communities.

INTEGRITY: We will act with honesty and transparency in everything we do.

INNOVATION: We will promote creativity, challenge the status quo, and work to improve Oregon’s education system.

EMPOWERMENT: we will value, respect, listen to multiple perspectives, and empower students, education professionals, families, and community members to take a leading role in ensuring student success.

INCLUSION: We will ensure that every student has access to the opportunities and benefits of Oregon’s education system.

EXCELLENCE: We will take actions to ensure the Oregon education system prepares every student for college, career, and life.

ADAPTABILITY: We will modify and adopt policies and practices to respond to changing social, demographic, operational, or financial conditions in order to do what is best for students and schools.

STUDENT CENTERED: We will ensure that all discussion, decisions, and action are centered on the best interest of every student.

State Board of Education Membership

A. Number & Terms of Office

The State Board of Education consists of the State Treasurer or the Treasurer's designee; the Secretary of State or Secretary's designee; and seven members, appointed by the Governor for a term of four years beginning July 1 of the year of appointment, subject to confirmation by the Senate. No person may be appointed to serve consecutively more than two full terms as a board member. According to the Office of the Governor, a member who completes another's term is still eligible to serve two additional four-year terms; a member whose final term has expired may remain on the board until replaced. The State Treasurer and the Secretary of State are nonvoting, ex officio members of the board (ORS 171.562 and 171.565; ORS 326.021).

B. Eligibility for Board Membership

In making appointments to the State Board of Education, the Governor selects from residents of Oregon one member from each congressional district and ~~one~~ two from the state at large. One appointed member [may not] from the state at large must be engaged in teaching as a licensed teacher in this state. No member shall be engaged in teaching or participate in the administration or operation of any school (ORS 326.021). The State Treasurer and the Secretary of State are nonvoting, ex officio members of the board (ORS 171.562 and 171.565; ORS 326.021). The State Treasurer and the Secretary of state may appoint a designee. Designees work to represent the perspective of the Secretary of State or State Treasurer to areas of shared interest, such as civics and financial literacy.

C. Vacancies

The Governor fills vacancies by appointment, and those nominations must be confirmed by the Senate. Appointments made to fill vacancies occurring prior to the expiration of a term are for the remainder of the unexpired term. When a

vacancy occurs in an appointment made from a congressional district, the successor shall be appointed from the congressional district for which the vacancy exists (ORS 326.031).

D. Removal from Office

The Governor may remove members of the State Board of Education for cause at any time after notice and public hearing (ORS 326.021).

The secretary or clerk of the state board reports to the Governor the names of all members who fail to attend any meeting of the board or commission (ORS 182.020). Any member of a state board or commission appointed by the Governor who fails to attend two consecutive meetings of the board or commission, whether regular, adjourned or special, may forfeit the office unless the member is prevented from attending by the serious illness of a member or the family of the member or for any other cause that in the judgment of the Governor constitutes a valid reason for failing to attend (ORS 182.010). Ex-officio non-voting members or their designees are not expected to attend every meeting. However, designees are expected to abide by the policies and procedures adopted by the State Board of Education. If a designee violates any of the Board's policies, the Chair may approach the Ex-Officio member and ask a different designee to be assigned.

E. Chair

The board shall elect one of its members to serve as chairperson of the board for one year commencing July 1. If the office of chairperson of the board is permanently vacated for any reason, the board may elect a new chairperson to serve until the June 30 next following (ORS 326.041).

END OF POLICY

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Board Authority/Responsibilities¹ - Policy # 2

A. Policy Setting Authority

The State Board of Education is responsible for adopting rules for the general governance of public kindergartens and public elementary and secondary schools. (ORS 326.051) In promulgating policies, the board shall consider the goals of a modern education, the requirements of a sound, comprehensive curriculum best suited to the needs of the students and the public and any other factors consistent with the maintenance of a modern and efficient elementary and secondary school system. (ORS 326.011).

B. Rule Making Authority

The State Board of Education is responsible for adopting Oregon Administrative Rules for the governance of K-12 education. Adoption of such rules shall comply with state and federal law (326.051).

C. Review/Appeal Authority

As provided by law, the board acts as decision-making body in some situations where a party makes an appeal to the board or asks for review. Examples of such actions include the following:

- Hearing district appeals on district boundary board decisions concerning boundary changes (ORS 330.090).
- Reviewing appeals from charter schools denied district sponsorship (ORS 338.075).

D. Executive/Administrative Authority

The Oregon Department of Education functions under the direction and control of the State Board of Education. All administrative functions of the board relating to supervision, management and control of schools are exercised through the

¹ For a complete list of statutory responsibilities, see Appendix C.

Oregon Department of Education under the Superintendent of Public Instruction (ORS 326.111).

However, state law does specifically assign the board some administrative duties. Among those administrative duties is accepting money or property donated for the use or benefit of schools ~~and community colleges~~ (ORS 326.051) and applying for federal funds and entering into contracts for the receipt of federal funds (ORS 326.051).

E. Fiscal Responsibility

In consultation with the~~The~~ State Board of Education, approves the budget of the Oregon Department of Education proposes an agency budget to the Governor.
The Governor the introduces an agency budget to the Legislature, which then takes action on ODE's budget.

As a state agency, the State Board of Education is subject to the provisions of the Oregon Accounting Manual (OAM 01.05.00.PO, section .105).

As a state agency, the State Board of Education is subject to the federal Cash Management Improvement Act that requires that state agencies minimize the time between the deposit of federal funds in state agency accounts and the disbursement of funds for program purposes (OAM 30.30.00.PO section .101).
The Board shall receive quarterly updates on the agency's budget and finances.

F. ~~Advisory Responsibility~~

~~The Teacher Standards and Practices Commission shall notify the State Board of Education of proposed rules and shall solicit its advice before adoption. Within 60 days after receiving notice from the commission of adoption of a rule, the State Board of Education on its motion or upon request shall review the rule to determine if the rule serves the public interest. Where the board finds pursuant to its review that the rule reviewed is not in the public interest, the board shall request the commission to set aside or amend the rule (ORS 342.167).~~

~~After considering recommendations of the State Board of Education, the Teacher Standards and Practices Commission shall establish by rule standards for approval of teacher education institutions and teacher education programs (ORS 342.14~~

E. Board Management Responsibility²

Board members will act in accordance with their role as a public representative of the agency.

1. Working with Other Boards

The board will monitor and coordinate with those other boards whose responsibilities and interests are closely related or overlap.

2. Effective Practices

The board ~~may~~will adopt practices that support effective meetings, such as the use of a consent calendar, subcommittees, public comment opportunities, and discussion. Members will identify and attend appropriate member training sessions, conduct periodic self-evaluations and audits of board practices, and periodic evaluations of board staff.

END OF POLICY

Oregon Department of Education (ORS 326.111) - Policy #3

The Department of Education is created and shall function under the direction and control of the State Board of Education with the Superintendent of Public Instruction serving as an administrative officer for public school matters.

² Department of Administrative Services and Legislative Fiscal Office. *Budget Note Report on Performance Measures for Boards and Commissions*. Prepared for July 6, 2006 Joint Legislative Audit Committee.

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The Department of Education shall consist of agencies and officers that are added by law to the Department of Education and administrative organizations and staffs required for the performance of the department's functions.

All administrative functions of the State Board of Education shall be exercised through the Department of Education, and the department shall exercise all administrative functions of the state relating to supervision, management and control of schools not conferred by law on some other agency.

END OF POLICY

Superintendent of Public Instruction Policy # 4

A. The Superintendent of Public Instruction

The Governor is the Superintendent of Public Instruction. (ORS 326.300). The Governor appoints a Deputy Superintendent of Public Instruction and is subject to confirmation by the Senate (ORS 171.562 & ORS 171.565

B. Authority

The Superintendent of Public Instruction:

1. Acts as administrative officer of the State Board of Education. (ORS 326. 310)
2. Acts as executive head of the Department of Education. (ORS 326. 310)
3. Assists all district school boards and education service district boards in answering questions concerning the proper administration of the school laws. (ORS 326. 310)
4. Obtains and compiles statistical information relative to the condition and operation of the public schools. (ORS 326. 310)
5. Appoints personnel as needed. (ORS 326. 310)

6. Administers and supervise adult education programs in elementary and secondary schools. (ORS 326. 310)
7. Performs other functions necessary to carry out the superintendent’s duties. (ORS 326. 310)
8. Compiles rules and laws for distribution to school districts (ORS 326.320).
9. Prepares biennial budget in compliance with Department of Administrative Services’ requirements (OAM 107-02-010).

END OF POLICY

Deputy Superintendent of Public Instruction Policy # 5

A. Deputy Superintendent of Public Instruction

The Governor shall appoint a Deputy Superintendent of Public Instruction. The appointment of the deputy superintendent shall be subject to confirmation by the Senate. (ORS 326.300)

B. Authority

The deputy superintendent shall perform any act or duty of the office of Superintendent of Public Instruction that is designated by the Governor ~~and shall serve under the direction and control of the Chief Education Officer for matters related to the design and organization of the state’s education system.~~ (ORS 326.300)

C. Removal

The deputy superintendent may be removed from office by the Governor following consultation with the State Board of Education. (ORS 326.300)

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END OF POLICY

Meetings Policy #6

A. Regular Meetings

The State Board of Education shall meet at least six times each year on dates determined by the board, and at such other times as may be designated by the chairperson agreeable to a majority of the board, or at the call of a majority of the board members (ORS 326.041).

B. Requirements of Meetings

1. Public Meeting Law Compliance

The State Board of Education shall comply with the provisions of ORS chapter 192, Records, Public Reports, Public Meetings.

- All meetings of the State Board of Education shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided by law. (ORS 192.630)
- Any subcommittees, task forces, or work groups that are charged with making recommendations as a whole to the board shall comply with the provisions of chapter 192³.

2. Time and Place

Meetings of the board shall be held within the geographic boundaries over which the public body has jurisdiction, or at the administrative headquarters of the public body or at the other nearest practical location. The State Board of Education may not hold a meeting at any place where discrimination on the basis of race, creed, color, sex, age, national origin or disability is practiced. It is

³ A body that has authority to make recommendations to a public body on policy or administration is a governing body (ORS 192.610(3); *Attorney General's Public Records and Meetings Manual*, 2005, p. 110-111. Subcommittees, task forces, and work groups that are charged with making recommendations as a whole, to the board, are subject to the public meetings law.

discrimination on the basis of disability for the State Board of Education to meet in a place inaccessible to the disabled, or, upon request of a deaf or hard-of-hearing person, to fail to make a good faith effort to have an interpreter for deaf or hard-of-hearing persons provided at a regularly scheduled meeting (ORS 192.630).

3. Notice

The members of the board will be given at least 10 days' notice, in writing, of the date and place of each regular or special meeting (ORS 182.020).

The board shall give public notice reasonably calculated to give actual notice to interested persons including news media who have requested notice, of the time and place for holding of its meetings, including its committees and work groups. The notice shall also include a list of the principal subjects anticipated to be considered at the meeting (ORS 192.640).

4. Quorum

For a motion to be adopted, a majority of the State Board of Education must vote in favor of the motion. A quorum of the seven-member State Board of Education is four members (ORS 174.130; *Opinions of the Attorney General*, vol. 41, p. 28, 1980). Absent a quorum, the State Board of Education may meet for the purposes of gathering information but no formal action may be taken.

A quorum of the State Board of Education may not meet in private for the purpose of deciding on or deliberating toward a decision on any matter except as otherwise provided by law (ORS 192.630(2)).

5. Minutes and Other Written Records

The board shall provide for the sound, video, or digital recording or the taking of written minutes of all its meetings. All minutes shall be available to the public within a reasonable time after the meeting and shall include at least the following information:

- All members of the board present;
- All motions, proposals, resolutions, orders, ordinances and measures proposed and their disposition;
- The results of all votes and the vote of each member by name;
- The substance of any discussion on any matter; and
- Subject to public records law, a reference to any document discussed at the meeting. (ORS 192.650)

Minutes and other reports presented to the board shall be available to the public and posted to the board’s website (ORS 192.243).

6. Archiving Records

The State Board of Education shall follow the retention schedule suggested by the Secretary of State’s Archivist (ORS 192.105).

C. Executive Session

1. Meetings (ORS 192.660)

The board may schedule an “executive session,” closed to the public, under certain circumstances allowed by law, including the following:

- To consider the employment of a public officer, employee, staff member or individual agent.
- To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.
- To review and evaluate the employment-related performances. The State Board of Education may not use an executive session for purposes of evaluating a staff member to conduct a general evaluation of an agency goal, objective or operation or any directive to personnel concerning agency goals, objectives, operations or programs).
- To conduct deliberations with persons designated by the governing body to negotiate real property transactions
- To consider information or records that are exempt by law from public inspection

-

The board as a whole can invite or include whomever they wish to attend an executive session meeting. The Board as a whole can invite Board Advisors and/or Ex-officio members or their designees to the executive session. An individual board member does not have that authority. The individual board member should make a motion to invite a specific individual to an executive session and the result of the vote will be the board's decision.

No executive session may be held for the purpose of taking any final action or making any final decision. Representatives of the news media shall be allowed to attend executive sessions, but the board may require that specified information be undisclosed. When the board convenes an executive session for the purposes of conferring with counsel on current litigation or litigation likely to be filed, the board shall bar any member of the news media from attending the executive session if the member of the news media is a party to the litigation or is an employee, agent or contractor of a news media organization that is a party to the litigation (ORS 192.660).

If an executive session is to be held, the meeting notice shall be given to the members of the board, to the general public and to news media which have requested notice, stating the specific provision of law authorizing the executive session (ORS 192.640(2), Attorney General's Public Records and Meetings Manual, 2005, p.129, 143,).

A record of any executive session may be written minutes or be kept in the form of a sound or video tape or digital recording, which need not be transcribed unless otherwise provided by law. If the disclosure of certain material is inconsistent with the purpose for which a meeting under ORS 192.660 is authorized to be held, that material may be excluded from disclosure. However, excluded materials are authorized to be examined privately by a court in any legal action and the court shall determine their admissibility (ORS 192.650).2. Penalties

Any decision made in violation of the public meetings law is voidable. A decision shall not be voided if the State Board of Education reinstates the decision while in compliance with public meetings law. A decision that is reinstated is effective from the date of its initial adoption (ORS 192.680).

The Government Standards and Practices Commission may impose civil penalties not to exceed \$1,000 for violating any provision of law pertaining to executive sessions. However, a civil penalty may not be imposed under this subsection if the violation occurred as a result of the State Board of Education acting upon the advice of the public body's counsel (ORS 244.350).

D. Special Meetings

No special meeting shall be held without at least 24 hours' notice to the members of the board, the news media that have requested notice and the general public. In case of an actual emergency, a meeting may be held upon such notice as is appropriate to the circumstances, but the minutes for such a meeting shall describe the emergency justifying less than 24 hours' notice (ORS 192.640).

END OF POLICY

Compensation and Reimbursement Policy #7

A. Compensation

Board members (other than members who are employed in full-time public service) are authorized to receive compensation for time spent in performance of official duties. Members shall receive a payment of \$30 for each day or portion thereof during which the member is actually engaged in the performance of official duties.

Compensation is subject to federal and state income tax withholding, social security and Medicare taxes, Workers' Compensation insurance, and Workers' Benefit Fund assessment (ORS 292.495; Dept. of Administrative Services *Oregon Statewide Payroll Services Reference Manual, Volunteers, Boards and Commissions*).

B. Reimbursement

Board members, including those employed in full-time public service, may receive actual and necessary travel or other expenses actually incurred in the

performance of their official duties within the limits provided by law or by the Oregon Department of Administrative Services under ORS 292.210 to 292.250 (ORS 292.495).

As a state agency, the State Board of Education is subject to the provisions of the Oregon Accounting Manual (OAM 01.05.00.PO, section .105).

Board members are directed to use state per diem meal and lodging reimbursement allowances. Under this option, receipts are not required for meal expenses (Oregon Accounting Manual 10.40.00.PO, section .108). Receipts for lodging are required. Receipts for meals are required when the expenses exceed the state per diem or if gratuities are claimed. Gratuities of 15% actual meal costs are permissible if reasonable and necessary for the conduct of state business and need to be documented on the receipt (Oregon Accounting Manual 10.40.00.PO, section .150).

Reimbursement for expenses incurred in a privately owned motor vehicle shall be at the rate established and regulated by the Oregon Department of Administrative Services. Reimbursement shall be paid only for distances actually traveled and trips made in the performance of official or state related duties. The rate is deemed to include gasoline, oil, repair parts, depreciation, taxes, insurance and maintenance and upkeep of every kind and nature (ORS 292.250).

C. Out of State Travel

It is the policy of the state that all out-of-state travel by state agency personnel shall be allowed only when the travel is essential to the normal discharge of the agency's responsibilities and shall be conducted in the most efficient and cost-effective manner resulting in the best value to the state.

- All out-of-state travel must be for official state business.
- Use of out-of-state travel must be related to the board's scope of responsibilities.
- Travel awards earned while conducting state business shall be used to reduce the costs of state travel. The use of travel awards obtained while conducting state business for personal travel constitutes personal gain from state employment and violates ORS 244.040.

END OF POLICY

Member Ethics - Policy #8

A. Code of Ethics

Board members are public officials under state law. Public office is a public trust, and as one safeguard of that trust, the people require all public officials to adhere to the code of ethics set forth in ORS 244.040. Board members should not make private promises that are binding upon the duties of a board member, because a board member has no private word that can be binding on public duty (ORS 244.010-.020). Members should familiarize themselves with Oregon's ethics laws; this policy highlights some key features but is not comprehensive. In the event of any conflict between this policy and Oregon ethics laws, the law supersedes the policy.

B. Financial Gain

No board member may use, or attempt to use, their official position or office to obtain financial gain or avoidance of financial detriment for the board member, a relative or household member of the board member, or any business with which the board member or a relative, or member of the household of the board member is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the member's holding of the official position. Permitted is official salary, honoraria, (except as prohibited below), reimbursement of expenses or an unsolicited award for professional achievement for the board member, the board member's relative, or for a household member of the board member (ORS 244.040).

A board member may not solicit or receive, whether directly or indirectly, honoraria for himself or for any member of the member's household with a value of \$50 or more if the honoraria is solicited or received in connection with the official duties of the board member. Honoraria does not include a certificate, plaque, commemorative token or other item with a value of \$50 or less, or

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honoraria for services performed in relation to the private profession, occupation, avocation or expertise of the board member. Any person that provides a board member or household member of the board member with an honorarium as allowed under ORS 244.042 with a value of \$15 shall notify the member in writing of the value of the item within ten days after the event for which the item was received (ORS 244.042, ORS 244.100).

No board member may solicit or receive, either directly or indirectly, and no person shall offer or give to any board member any pledge or promise of future employment, based on any understanding that such board member's vote, official action or judgment would be influenced by such a pledge or promise (ORS 244.040).

No board member or former board member may attempt to further or further the personal gain of the board member through the use of confidential information gained in the course of or by reason of the official position or activities of the board member in any way (ORS 244.040).

No board member may attempt to represent or represent a client for a fee before the State Board of Education. This subsection does not apply to the person's employer, business partner or other associate (ORS 244.040).

C. Gifts

No person shall offer during any calendar year any gifts with an aggregate value in excess of \$50 from any single source to any board member or their relative or household member, if the person offering the gift could reasonably be known to have a legislative or administrative interest in the Oregon Department of Education (ORS 244.025).

No board member, their relative, or household member shall solicit or receive, whether directly or indirectly, during any calendar year, any gift or gifts with an aggregate value in excess of \$50 from any single source who could reasonably be known to have a legislative or administrative interest in the board member. "Legislative or administrative interest" means an economic interest, distinct from that of the general public in any matter subject to the decision or vote of the

board member acting in the board member's capacity as a public official. (ORS 244.020, ORS 244.025).

Gifts do not mean:

- (a) Gifts from relatives or members of the board member's household.
- (b) Unsolicited tokens of appreciation with a resale value of less than \$25.
- (c) Informational material, publications, or subscriptions related to the performance of the board member's public duties.
- (d) Admission/cost of food consumed by a board member, or a member of the household when accompanying the board member at a reception, meal, or meeting held by an organization when the board member represents state government.
- (e) Reasonable expenses paid by any local, state, or federal government; a state or nationally recognized Native American tribe; a membership organization to which a public body pays membership dues; or a not-for-profit corporation for attendance at a convention, fact-finding mission or trip, or other meeting if the public official is scheduled to deliver a speech, make a presentation, participate on a panel or represent state government.
- (f) Reasonable food, travel, or lodging expenses provided to a public official, or a relative/household member/staff member of the board member accompanying the board member when the board member is representing state government.
- (g) Food or beverage consumed while the board member is acting in an official capacity.
- (h) Food or beverage consumed by a board member at a reception where the food or beverage is provided as an incidental part of the reception and no cost is placed on the food or beverage.
- (i) Entertainment provided to a board member/relative/member of the household that is incidental to the main purpose of another event.
- (j) Entertainment provided to a board member/relative/member of the household where the board member is acting in an official capacity while representing state government.

(k) Anything of economic value that is part of the usual and customary practice of the person's private business, employment, or volunteer activities and bears no relationship to the board member's official position.

Any organization, unit of government, tribe, or corporation that provides a board member with expenses with an aggregate value exceeding \$50 for an event (convention, trip, certain meetings) shall notify the board member in writing of the amount of the expense. The notice shall be sent to the board member within 10 days from the date such expenses are incurred (ORS 244.100).

D. Conflicts of Interest

An "actual conflict of interest," means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated (ORS 244.020).

A potential conflict of interest means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated, unless the pecuniary benefit or detriment arises out of the following:

(a) An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position.

(b) Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated, is a member or is engaged.

(c) Membership in or membership on the board of directors of a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code.

When confronted with a **potential** conflict of interest, a board member shall:

- announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official.

When confronted with an **actual** conflict of interest, a board member shall:

- Announce publicly the nature of the actual conflict.
- Refrain from participating as a public official in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue, unless the member's vote is necessary to meet the quorum requirement.
- Notify in writing the Governor of the nature of the conflict and request that the Governor dispose of the matter giving rise to the conflict. Upon receipt of the request, the Governor shall designate, within a reasonable time, an alternate to dispose of the matter or shall direct the official to dispose of the matter in a manner specified by the Governor (ORS 244.120).

Conflicts and potential conflicts and their disposition shall be recorded in the minutes and may be reported to the Oregon Government Ethics Commission at the discretion of the board (ORS 244.130).

The Oregon Government Ethics Commission may impose civil penalties not to exceed \$1000 for violating any provision of this chapter or any resolution adopted under ORS chapter 244 (ORS 244.350). Board members who have financially benefited by a conflict of interest may be required to forfeit twice the amount of the gain realized (ORS 244.360).

E. Bribery

A person commits the crime of bribe-giving if the person offers, confers or agrees to confer any pecuniary benefit upon a public servant with the intent to influence the public servant's vote, opinion, judgment, action, decision or exercise of discretion in an official capacity. (ORS 162.015). Bribe giving is a Class B felony,

punishable with up to 10 years in jail and a \$250,000 fine (ORS 161.625, ORS 161.605).

A public servant commits the crime of bribe-receiving if the public servant: (a) solicits any pecuniary benefit with the intent that the vote, opinion, judgment, action, decision or exercise of discretion as a public servant will thereby be influenced; or (b) accepts or agrees to accept any pecuniary benefit upon an agreement or understanding that the vote, opinion, judgment, action, decision or exercise of discretion as a public servant will thereby be influenced (ORS 162.025). Bribe receiving is a Class B felony punishable with up to 10 years in jail and a \$250,000 fine (ORS 161.625, ORS 161.605).

F. Official Misconduct

A board member commits the crime of official misconduct in the second degree if the person knowingly violates any statute relating to the office of the person (ORS 162.405). Official misconduct in the second degree is a Class C misdemeanor, punishable with up to 30 days in jail and a \$1250 fine (ORS 161.615, ORS 161.635).

A board member commits the crime of official misconduct in the first degree if with intent to obtain a benefit or to harm another: (a) the public servant knowingly fails to perform a duty imposed upon the public servant by law or one clearly inherent in the nature of office; or (b) the public servant knowingly performs an act constituting an unauthorized exercise in official duties (ORS 162.415). Official misconduct in the first degree is a Class A misdemeanor, punishable with up to one year in jail or a \$6250 fine (ORS 161.635, ORS 161.615).

G. Economic Interest Form

Members of the State Board of Education are required to file with the Oregon Government Ethics Commission a verified statement of economic interest by April 15 of each year (ORS 244.050). The statement of economic interest filed under ORS 244.050, shall be on a form prescribed by the Oregon Government Ethics Commission (ORS 244.060). Failure to file the statement may result in a civil penalty (ORS 244.050, ORS 244.060).

The Oregon Government Ethics Commission shall notify the board member if it has not received the statement within five days of its due date and give the board member no fewer than 15 days to comply prior to imposing a penalty. Failure to file the statement may result in the commission imposing a fine of \$10 for each of the 14 days the statement is late and \$50 for each day thereafter (ORS 244.350).

END OF POLICY

Public Records, Social Media & Email Policy - # 9

A. Definition of Public Records

For retention purposes, a “public record” includes, but is not limited to, a document, book, paper, photograph, file, sound recording or machine readable electronic record, regardless of physical form or characteristics, made, received, filed or recorded in pursuance of law or in connection with the transaction of public business, whether or not confidential or restricted in use (ORS 192.005).

For public access purposes, a “public record” is any writing containing information relating to the conduct of the public’s business, including but not limited to, court records, mortgages and deed records, prepared, owned, used or retained by a public body regardless of physical form or characteristics” (ORS 192.410(4)).

Board docket items, handouts, administrator files, board e-mails, social media accounts, correspondence, and minutes are all public records required to be retained and accessible by the public (ORS 192.005, OAR 166-350- 0010).

Purely personal messages, as well as unsolicited messages and advertisements (spam), are not public records under the retention/disposition aspect of the law but may be accessible to the public under the access portion of the law (ORS 192.502). Confidential records, such as those protected by lawyer-client privilege are not public records.

B. Access to Public Records

All board materials are public documents and available to the public upon request. An exception is confidential lawyer-client materials. In addition, work done on private e-mail accounts as well as personally purchased computers and hand held devices might be considered a public record for both access and retention/disposition (ORS 192.502).

C. Retention of Public Records

The State Board of Education will follow the retention schedule suggested by the Secretary of State's Archivist (ORS 192.105; OAR 166-350-0010). Tampering with a public record is punishable by a year in prison and a \$5000 fine (ORS 162.305). •

- Audio Tapes: Retention: 1 year following transcription; destroy
- Minutes: Retention: Permanent; transfer to State Archives after 10 years
- Other meeting records: Retention: 5 years; destroy
- Board Records (correspondence, budgets, committee reports, reports, reference material) -- Retention: 4 years, destroy
- Member Personnel Records (appointment letters, employee data sheets) - Retention: 10 years after final term expires, destroy
- Organizational Records (bylaws, mission/goal statements, work plans, policy) - Retention: Permanent, transfer to State Archives after 10 years
- Board Lobbyist Records (registration, correspondence, reports) - Retention: Expenditure reports: 5 years, destroy; Other: 5 years after last activity

D. Charging for Records Requests

The Oregon Public Records Law expressly authorizes a public body to establish fees "reasonably calculated to reimburse it for its actual cost in making such records available." It further permits local government to include in its fees "costs for summarizing, compiling or tailoring a record to meet the person's request." "Actual cost" may include a charge for the time spent by staff to locate the requested records, review the records to delete exempt material, supervise a person's inspection of the original documents in order to protect the records, copy records, certify documents as true copies or send records by special

methods such as express mail. It also includes the cost of an attorney reviewing and segregating records that should not be disclosed. The board may not charge a fee greater than \$25 unless the public body first provides the requestor with a written notification of the estimated amount of the fee and the requestor confirms that the requestor wants the public body to proceed with making the public record available (ORS 192.440).

E. Social Media – Board Members, Board Advisors, & Ex-Officio or their Designee

Definitions

1. "Social Media" is an umbrella term for various forms of communication consisting of user-created text, audio and video published in a shared online environment, such as over the Internet or through mobile telephone networks, including but not limited to, social network services (i.e., Facebook, Twitter, LinkedIn, etc.), blogs, texts, forums or message boards, audio/video content commodities (i.e., You Tube, Flickr), etc.
2. "Intellectual Property" is a product of the intellect (knowledge) that has commercial value, including copyrighted property such as literary or artistic works, and ideational property, such as patents, appellations of origin, business methods, and industrial processes.
3. "Public official" is defined in ORS 244.020(14)1 as any person who, when an alleged violation of ORS Chapter 244 occurs, is serving the State of Oregon or any of its political subdivisions or any other public body as defined in ORS 174.109 as an elected official, appointed official, employee or agent, irrespective of whether the person is compensated for the services. Volunteers are also public officials.

To address the increasing popularity and usefulness of social media as a rapidly evolving means of communication. The policy is to provide important standards and guidelines when using social media.

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Board members, board advisors, ex-officio or their designees will abide by the State Board of Education (SBE) Policy & Procedures manual and any guidelines provided in the manual. Board members, board advisors, ex-officio or their designees are public officials. Participation in social media on behalf of SBE is not a right, but an opportunity. Board members, board advisors, ex-officio or their designees are expected to treat this opportunity with due seriousness and respect, and are expected to follow the terms and conditions for any third-party sites.

Failure to abide by these guidelines could put any board members, board advisor, ex-officio or their designee participation at risk.

The following are official guidelines for participating in social media for SBE and are applicable for any board members, board advisors, ex-officio or their designees personally creating or contributing to blogs, social networks or any other kind of social media.

Board members, board advisors, ex-officio or their designees who use social media for SBE purposes are to always conduct themselves in a professional manner according to this policy and any other applicable policies and procedures. Board members, board advisors, ex-officio or their designees are public figures are public officials subject to Oregon Ethics Laws.

All Board members, board advisors, ex-officio or their designees will maintain SBE's confidentiality, legal guidelines for speech, follow the Ethics Commission guidelines, and personal privacy. Everything on the Internet is public and searchable. Ultimately individual postings are the responsibility of the individual. Board members, board advisors, ex-officio or their designees should have no expectation of privacy while using SBE email addresses or while sending to Oregon Department of Education (ODE) computer systems and other devices.

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ODE and SBE will monitor and investigate the use of equipment and associated sites as necessary. “

Confidential information” includes, but is not limited to, litigation and client-related information.

SBE and ODE support transparency and are committed to ensuring all postings clearly disclose relationships or endorsements, and that statements about SBE and ODE are truthful and substantiated. All published material must be true and not misleading, and all claims must be substantiated and approved.

SBE board administrator monitors social media related to its activities and interests, including the activities of board members, board advisors, ex-officio or their designees. Authors of any nondisclosed relationships or statements that are false or misleading will be contacted for correction. If it is found that an author repetitively makes inaccurate statements about SBE or ODE, SBE may revoke authorization to participate in social media on behalf of the State Board of Education.

Social media websites have nearly unlimited communication potential, duration and retention, and generally can be accessed by anyone around the world. Thus, to protect SBE’s legitimate interests, Board members, board advisors, board staff, ex-officio or their designees or volunteers who maintain or contribute to social media sites are prohibited from engaging in the following activities:

- Using social media to threaten physical violence against ODE employees, SBE members, contractors, volunteers or others associated with the organization or to harass such individuals based on their color, race, national origin, religion, sex, sexual orientation, age, disability, marital status, or any other protected status under applicable law;
- Using social media to comment on anything that would be protected by federal law under HIPPA/FERPA;

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- Using social media to post intellectual property, trademarks logos or copyrighted materials owned by SBE and ODE or any of its affiliates;
- Post photos or recordings without prior notification;
- Posting SBE or ODE confidential business information, including but not limited to private information about ODE employees, volunteers, Board members, board advisors, ex-officio or their designees, service providers and suppliers, SBE's financial information;
- Using photographs, recordings, marketing materials or other materials owned by SBE for personal social media activities;
- Using social media to engage in libelous, defamatory, obscene, violent, maliciously false or otherwise egregious behavior directed at or implicating SBE, its members, visitors, employees, volunteers, contractors, service providers or others associated with the SBE or any of its affiliates.

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If individual Board members, board advisors, ex-officio or their designees requests to create a Facebook, twitter, or any other social media account to represent yourself as a Board member, board advisor or ex-officio member, the Chair must first approve the request. Once the Chair approves, the Board Administrator will create the social media account and give access to the Board member, ex-officio or their designee, or advisor. The Board administrator will monitor the individual Board member, board advisors, ex-officio social media account.

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These limitations are not intended to infringe upon any rights that Board members, board advisors, ex-officio or their designees may have under applicable local, state and federal employment and/or labor laws. These guidelines have been created to protect the Board from liabilities.

SBE reserves the right to take any appropriate legal action necessary to stop or remedy improper or unlawful conduct involving social media.

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Public record laws apply to all information posted on any social media platform while representing SBE, including private messages sent between public and private individuals.

Board Member Email Account Guidelines

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As email access has spread to many of SBE members, it has become a significant means of communicating within the SBE members, SBE advisors, Ex-Officio members and their designees. Meeting agendas and other information is frequently distributed via an electronic distribution list of all current board members. Some board members may not have access to email, or cannot receive attachments. In such cases, the Board member should work with board staff to develop a mutually agreeable method of communication. This could be via US mail, fax, phone, or another board member with email who could relay information to/from the board member.

Board members should create a unique individual email account for public business. Board members may request that ODE provide an individual email address through ODE for business use. The Board Administrator will have access to all Board member email and assist Board members with email responses, as needed.

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END OF POLICY

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Oregon Administrative Rules - Policy #10

A. Definition (ORS 183.310(9))

Under Oregon law, an administrative rule means any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any agency. The term includes the amendment or repeal of a prior rule, but does not include:

1. Unless a hearing is required by statute, internal management directives, regulations or statements which do not substantially affect the interests of the public:
 - a. Between agencies, or their officers or their employees; or
 - b. Within an agency, between its officers or between employees.
2. Action by agencies directed to other agencies or other units of government which do not substantially affect the interests of the public.
3. Declaratory rulings issued pursuant to ORS 183.410 or 305.105.
4. Intra-agency memoranda.
5. Executive orders of the Governor.
6. Rules of conduct for persons committed to the physical and legal custody of the Department of Corrections, the violation of which will not result in:
 - a. Placement in segregation or isolation status in excess of seven days.
 - b. Institutional transfer or other transfer to secure confinement status for disciplinary reasons.
 - c. Disciplinary procedures adopted pursuant to ORS 421.180. (ORS 183.310)

B. Public Input (ORS 183.333)

It is the policy of this state that whenever possible the public be involved in the development of public policy by agencies and in the drafting of rules. The Legislative Assembly encourages agencies to seek public input to the maximum extent possible before giving notice of intent to adopt a rule. Written comments or testimony to the Board can be sent to the board administrator.

1. Public Comment at Board Meetings:

The State Board of Education values public input. The role of the State Board of Education is to actively listen to and reflect on public comments. Each person wishing to address the Board must sign-up individually for the Public Comment period on the agenda. A sign-up sheet will be placed by the boardroom entrance and each name will be called upon by the Board’s Executive Officer. Public Comment allows the Board and Deputy Superintendent to hear issues of interest, but does not allow an opportunity for dialogue between the speaker, Board or

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Deputy Superintendent. The Board may ask staff to respond to public comments or questions raised during the public comment period.

The guidelines below for public input emphasize respect and consideration of others:

- A sign-up sheet will be placed by the room entrance and each name will be called upon by the
- Board's Executive Officer.
- The Board's Executive Officer will read off the names of the speakers who signed up to testify. Individuals called will come up to the testimony table and will have three minutes to testify, unless otherwise stated.
- Please begin by stating your name for the record.
- Each person providing public comment will have a total of three minutes; when your time is up, a buzzer will sound. The Board respectfully asks that you conclude your comments at that time.
- Taking more time reduces others ability to provide public comments.
- Those providing public comment may submit written testimony before or at the meeting.
- If an interpreter is required, please notify the Board Officer at least 48 hours in advance.

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Complaints about individual employees should be directed to the Deputy Superintendent's office as a personnel matter.

2. Advisory Committees

The agency may appoint an advisory committee that will represent the interests of persons likely to be affected by the rule, or use any other means of obtaining public views that will assist the agency in drafting the rule.

If an agency appoints an advisory committee for consideration of a rule, the agency shall seek the committee's recommendations on whether the rule will have a fiscal impact, what the extent of that impact will be and whether the rule will have a significant adverse impact on small businesses. If the committee

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indicates that the rule will have a significant adverse impact on small businesses, the agency shall seek the committee's recommendations on compliance with ORS 183.540.

An agency shall consider an advisory committee's recommendations provided under subsection (3) of this section in preparing the statement of fiscal impact required by ORS 183.335 (2)(b)(E).

If an agency does not appoint an advisory committee for consideration of a permanent rule under subsection (1) of this section and 10 or more persons likely to be affected by the rule object to the agency's statement of fiscal impact as required by ORS 183.335 (2)(b)(E) or an association with at least 10 members likely to be affected by the rule objects to the statement, the agency shall appoint a fiscal impact advisory committee to provide recommendations on whether the rule will have a fiscal impact and what the extent of that impact will be. An objection under this subsection must be made not later than 14 days after the notice required by ORS 183.335 (1) is given. If the agency determines that the statement does not adequately reflect the rule's fiscal impact, the agency shall extend the period for submission of data or views under ORS 183.335 (3)(a) by at least 20 days. The agency shall include any recommendations from the committee in the record maintained by the agency for the rule.

1.3. Interested Parties

Any agency in its discretion may develop a list of interested parties and inform those parties of any issue that may be the subject of rulemaking and invite the parties to make comments on the issue (ORS 183.333).

2.4. Hearing

Opportunity for oral hearing shall be granted upon request received from 10 persons or from an association having not less than 10 members before the earliest date that the rule could become effective after the giving of notice. An agency holding a hearing upon a request made under this subsection shall give notice of the hearing at least 21 days before the hearing to the person who has requested the hearing. The agency shall publish notice of the hearing in the

bulletin referred to in ORS 183.360 at least 14 days before the hearing. The agency shall consider fully any written or oral submission (ORS 183.335).

C. Notice (ORS 183.335, 183.341; OAR 581-001-000)

Prior to the adoption, amendments or repeal of any rule, the State Board of Education shall give notice as required by OAR 581-001-000. ~~of the proposed adoption, amendment or repeal:~~

1. ~~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;~~
2. ~~By 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(7);~~
3. ~~Persons who wish to be placed on the State Board of Education's mailing list may request in writing that the Department mail to the person copies of its notice of proposed rulemaking;~~
4. ~~By mailing a copy of the notice to the following persons, organizations or publications:~~
 - ~~Associated Press;~~
 - ~~Higher Education Coordinating Commission~~
 - ~~Confederation of Oregon School Administrators;~~
 - ~~Established student and parent organizations that have submitted mailing addresses;~~
 - ~~Education Service Districts;~~
 - ~~Oregon Community College Association;~~
 - ~~Oregon Education Association;~~
 - ~~Oregon Education Policy and Planning;~~
 - ~~Oregon Federation of Teachers;~~
 - ~~Oregon School Boards Association;~~

- ~~Oregon School Employees Association; and~~
- ~~Capitol Press Room~~

D. Content of Notice (ORS 183.335)

The required notice may be given in written or electronic form and must include:

A caption of not more than 15 words that reasonably identifies the subject matter of the agency's intended action. The agency shall include the caption on each separate notice, statement, certificate or other similar document related to the intended action.

- An objective, simple and understandable statement summarizing the subject matter and purpose of the intended action in sufficient detail to inform a person that the person's interests may be affected, and the time, place and manner in which interested persons may present their views on the intended action.
- A citation of the statutory or other legal authority relied upon and bearing upon the promulgation of the rule;
- A citation of the statute or other law the rule is intended to implement;
- A statement of the need for the rule and a statement of how the rule is intended to meet the need;
- A list of the principal documents, reports or studies, if any, prepared by or relied upon by the agency in considering the need for and in preparing the rule, and their location;
- A statement of fiscal impact identifying state agencies, units of local government and the public which may be economically affected by the adoption, amendment or repeal of the rule and an estimate of that economic;
- If an advisory committee is not appointed under the provisions of ORS 183.333, an explanation as to why no advisory committee was used to assist the agency in drafting the rule; and
- A request for public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

- When providing notice of an intended action under subsection (1)(c) of this section, the agency shall provide a copy of the rule that the agency proposes to adopt, amend or repeal, or an explanation of how the person may acquire a copy of the rule. The copy of an amended rule shall show all changes to the rule by striking through material to be deleted and underlining all new material, or by any other method, that clearly shows all new and deleted material.

E. Temporary Rules (ORS 183.335)

An agency may adopt a temporary rule that adopts, amends or suspends a rule without prior notice or hearing or upon any abbreviated notice and hearing, if the agency prepares:

- A statement of its findings that its failure to act promptly will result in serious prejudice to the public interest or the interest of the parties concerned and the specific reasons for its findings of prejudice;
- A citation of the statutory or other legal authority relied upon and bearing upon the promulgation of the rule;
- A statement of the need for the rule and a statement of how the rule is intended to meet the need;
- A list of the principal documents, reports or studies, if any, prepared by or relied upon by the agency in considering the need for and in preparing the rule, and a statement of the location at which those documents are available for public inspection.

A rule adopted, amended or suspended under subsection (5) of this section is temporary and may be effective for a period of no longer than 180 days.

F. Filing of Rules (ORS 183.335)

Each agency shall file in the office of the Secretary of State a certified copy of each rule adopted by it. Each rule is effective upon filing as required, unless another effective date is given.

G. Rules Review (ORS 183.405)

Not later than five years after adopting a rule, an agency shall review the rule for the purpose of determining:

- Whether the rule has had the intended effect;
- Whether the anticipated fiscal impact of the rule was underestimated or overestimated;
- Whether subsequent changes in the law require that the rule be repealed or amended; and
- Whether there is continued need for the rule.

H. Rules Coordinator (ORS 183.330)

Each state agency that adopts rules shall appoint a rules coordinator and file a copy of that appointment with the Secretary of State. The rules coordinator shall:

- Maintain copies of all rules adopted by the agency and be able to provide information to the public about the status of those rules;
- Provide information to the public on all rulemaking proceedings of the agency; and
- Keep and make available the mailing list required by ORS 183.335 (8).

I. Readability (ORS 183.750)

The Department of Education shall prepare its public writings in language that is as clear and simple as possible.

END OF POLICY

Section B: Board General Governance Policies

Board Policies and Procedures - Policy #100

A. Board Policies

The board shall operate under its policies as directed by law and as adopted by the board. These policies may be adopted, amended, or repealed by a majority of the board. No amendment shall be contrary to the laws of Oregon.

The policies may be amended at any meeting upon giving the members of the board ten (10) days advance notice of such proposed amendments, and upon an affirmative vote of a majority of the directors. Punctuation, grammar, and typographical errors may be corrected by board staff without a vote of the board.

B. Board Procedures

The board shall regularly review its operational procedures, generally at its annual retreat. At a minimum, the board's operational review shall include an annual work plan session⁴

Board Officers/ Board Organization - Policy #101

A. Chair

The board shall elect one of its members to serve as chairperson of the board for one year commencing July 1. If the office of chairperson of the board is permanently vacated for any reason, the board may elect a new chairperson to serve until the June 30 next following year (ORS 326.041).

A member may serve as chair for no more than two consecutive years⁵.

Duties of the Chair⁶:

⁴ 1997 State Board of Education Policy Manual, Code BK

⁵ Ibid.

⁶ Ibid.

- Calls special meetings not on board’s adopted calendar.
- Sets agenda.
- Presides at meetings.
- Ensures fairness and impartiality.
- Enforces parliamentary procedure.
- Names members for board subcommittees and liaisons, unless a majority of the board votes otherwise.
- Serves as an ex-officio member on board subcommittees.
- Acts as the primary spokesperson to the press for the board.
- Performs other duties as may be required by law or action of the board.
- May form committees and workgroups

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B. Vice Chair⁷

The board will elect one of its members to serve as vice-chairperson of the board for one year commencing July 1.

Duties of the Vice Chair:

- Presides at meetings in the event of an absence of the Chair.
- Performs other duties as directed by the Chair or the vote of the board.

C. Second Vice Chair⁸

The board will elect one of its members to serve as second vice-chairperson of the board for one year commencing July 1.

Duties of the Second Vice Chair:

- Presides at meetings in the event of an absence of the Chair and Vice Chair.
- Performs other duties as directed by the Chair or the vote of the board.

D. Member Duties

- Attend meetings on time, prepared to act on the agenda.
- Act in an impartial, fair, and courteous manner.

⁷ Ibid.

⁸ Ibid.

- Familiarize themselves with proper parliamentary procedure.
- Accept assignments and complete them in a timely manner.
- Respect and accept majority rules.
- May, with three other board members, add items to the agenda.

E. Ex-Officio Member or Designee

The State Treasurer and the Secretary of State are nonvoting ex-officio members of the board by virtue of the office or position they hold. The State Treasurer and Secretary of State may appoint a designee.(ORS 326.021) It is recommended that the designee of Ex-Officio member be a state employees of the respective offices to provide updates of shared interest. When an ex-officio member ceases to hold the office that entitles them to membership, their membership on the board terminates automatically.

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Duties of the Ex-Officio Member or their Designee:

- May attend Board meetings.
- May not vote on actions before the board.
- Provide updates from their respective offices on how their offices work intersects with educational policies.
- Act in an impartial, fair, and courteous manner.
- Familiarize themselves with proper parliamentary procedure.

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E.F. Individual Board Members, Ex-Officio Member or Designee, and Advisors

Board Members, Ex-officio or their designees, and Board advisors of the State Board of Education have authority only when acting as a member of the board during legal sessions. The Board cannot be bound by statements or actions of individual members unless directed by the Chair. Individual Board members, Advisors, Ex-officio or their designees do not have authority to direct ODE, district or school level staff. Individual board members do not speak for the board unless the board arrived at a formal decision. If individual Board, advisors or ex-officio

members want updates on ODE topics, those request need to be sent to the Board Administrator and Chair.

To contact individual ODE staff, that request must be sent to the Board administrator to make sure staff is properly responding to Board members.

F.G. Organization

1. Subcommittees

The board chair may form subcommittees and workgroups on issues before the board to make more efficient use of meeting time. A “subcommittee” will consist solely of board members with staff support and may also include advisors and community members who have been appointed by the board; a “work group” will include other stakeholders and is led by staff.

A board advisor or ex-officio member on a subcommittee may vote for a recommendation to be brought to the State Board of Education. However, the State Board of Education will ultimately have the final vote on that recommendation. The board advisor or ex-officio member will not be able to vote when the final recommendation is made to the State Board of Education.

When subcommittees and work groups are created, their duties and length of service will be determined by chair, unless a majority of the board votes otherwise. Board members serving on committees will keep the board apprised of the committee’s activities.

Committees will comply with the Oregon public meetings law. They will be open to the public with formal notices sent out.

2. Executive Committee

The Executive Committee assists the chair in carrying out his or her duties. The Executive Committee consists of the Chair, Vice Chair, and immediate past Chair, or Chair, Vice Chair, and Second Vice Chair. The Chair will determine membership of the Executive Committee.

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The Executive Committee is empowered to act in emergencies requiring immediate action and in which reasonable efforts to convene an emergency meeting or conference call to resolve the issue have not succeeded. Notification of any such action must be conveyed to all board members as soon as possible and ratified by the full board at the next regular meeting⁹. Failure to ratify the Executive Committee’s action by the full board nullifies the decision.

2.3. Liaisons

Members may be asked to be a contact for various education associations and attend some or all meetings. Members and advisors may be reimbursed for their participation in assigned liaisons.

END OF POLICY

Board Advisors/Stakeholder Groups - Policy #102

A. Creation and Term of Board Advisors

The board may elect to have board advisors. Advisors will serve a one-year term from July 1 through June 30. Advisors may serve more than a single term and be re-elected for consecutive terms. Advisors will receive all materials distributed to the board as a whole

1. Criteria for Advisor Selection

- Interest in serving as an advisor for one year
- Commitment to attend board meetings and any special board functions
- Willingness to participate in policy discussions
- Ability to deliberate policy issues
- Demonstrated leadership qualities
- Experience with education delivery in Oregon
- Actively employed in good standing

⁹ 1997 State Board of Education Policy Manual, Code BCE

2. Advisors

- K-12 School Administrator
- K-12 Teacher
- K-12 Student
- Early Learning Teacher/Professional Advisor

3. Advisor Selection Process

In consultation with the Superintendent of Public Instruction and the board chair, advisors will be selected as follows:

K-12 School Administrator: Up to three nominations from the Confederation of School Administrators will be submitted to the board. The board Executive Committee will recommend a candidate to the full board who will vote on the selection.

K-12 Teacher: Up to three nominations from the Oregon Education Association will be submitted to the board. The board Executive Committee will recommend a candidate to the full board who will vote on the selection.

K-12 Student: The board administrator will solicit candidates, review applications, and forward up to three names to an interviewing committee named by the board chair who will recommend a candidate to the full board who will vote on the selection.

~~*Early Learning Advisor:* Nominations will be made from the Early Learning Council and early childhood communities. The executive board will review the nominations and make a recommendation to the full board.~~

Board advisors will be approved by a vote of the full board.

4. Responsibilities of Advisors

- Attend board meetings

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- Assist the board in analyzing issues, proposals, and requests before it
- Other duties as assigned by the board chair

5. Advisor Compensation

Advisors are eligible for reimbursement of actual expenses incurred in attending board meetings and board- related activities, including mileage, meals, and hotels.

B. Stakeholder Groups

The board may vote to have regular reports from stakeholder groups including but not limited to:

1. Recognized Stakeholders
 - Oregon School Boards Association
 - Oregon Education Association
 - Confederation of Oregon School Administrators
 - Nine Confederated Tribes of Oregon
 - Community Organizations
 - Parent Groups

2. Responsibilities of Stakeholders
 - Make periodic updates at board meetings of their organization's activities
 - Assist the board in analyzing issues, proposals, and requests before it

END OF POLICY

Meeting Protocol - Policy # 103

The State Board of Education will conduct all meetings in accordance with state law and will be accessible to persons with disabilities. A request for an interpreter

for the hearing impaired or for other accommodations should be made at least 48 hours prior to the meeting.

A. Agendas

The board chair, working with the board administrator, and the Superintendent of Public Instruction, and the will prepare an official agenda for board meetings. The agenda will be posted to the board’s website and distributed to interested parties as soon as it is available. Any four board members may request in writing that an item be added to an agenda.

B. Docket Materials

1. Content

All items on the agenda will be accompanied by written material a completed docket that supports the presence of the item on the agenda, unless the item is a presentation by someone other than ODE staff. The docket includes background, summary of previous board action, policy issues or concerns, equity impact analysis, fiscal analysis, effects of decision, and staff recommendations.

2. Timing:

The agenda with supporting detail will be provided to each state board member and advisor approximately one week prior to the board meeting¹⁰.

3. Public Access:

All board documents, to the extent possible, will be posted on the State Board of Education’s website.

4. Recommendations:

When action on an item is requested, staff will make a recommendation on what that action should be to the board.

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¹⁰ 1997 State Board of Education Policy Manual, Code BDDA. Prior requirement was 5 days before a meeting

C. Public Comment¹¹

The role of the State Board of Education is to actively listen to and reflect on public comments. Each person wishing to address the Board must sign-up individually for the public comment period on the agenda. Persons or groups wishing to appear before the board may be given a reasonable opportunity to do so; there will be time allotted on each agenda for public comment. A sign-up sheet for those who wish to offer comments or testimony on any item will be available at the meeting. The board may impose such time limitations on any appearance as it may deem appropriate. Written testimony may also be submitted to the board administrator. The public comment period is not to be used as a vehicle for immediate resolution of problems, but is a method to bring important issues to the board's attention. Speakers may offer objective criticism of state operations and programs, but the board will not hear complaints concerning individual personnel; persons with such complaints will be directed to the appropriate process for the disposition of personnel complaints. ~~The board will not hear comments on administrative rules after the comment period has ended.~~ Public Comment allows the Board and Deputy Superintendent to hear issues of interest, but does not allow an opportunity for dialogue between the speaker, Board or Deputy Superintendent. The Board may ask staff to respond to public comments or questions raised during the public comment period.

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The guidelines below for public input emphasize respect and consideration of others and will be used by Board staff:

- A sign-up sheet will be placed by the room entrance and each name will be called upon by the Board Chair or administrator.
- The Board Chair or administrator will read off the names of the speakers who signed up to testify. Individuals called will come up to the testimony table and will have three minutes to testify, unless otherwise stated.
- Please begin by stating your name for the record.

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¹¹ State Board of Education Policy Manual, 1997, policy code BDDB

- Each person providing public comment will have a total of three minutes; when your time is up, a buzzer will sound. The Board respectfully asks that you conclude your comments at that time. Taking more time reduces others ability to provide public comments.
- Those providing public comment may submit written testimony before or at the meeting.
- If an interpreter is required, please notify the Board Officer at least 48 hours in advance.

Complaints about individual employees should be directed to the Deputy Superintendent’s office as a personnel matter.

D. Consent Agenda¹²

Items requiring board approval may be placed on the consent agenda upon the recommendation of the superintendent. Any item may be removed from the consent agenda by a board member. Items remaining in the consent agenda section will be adopted by a single motion. Actions that have been taken by the superintendent that require board approval may be placed on the agenda in the for-the-record section. By a single consent motion, the board adopts the resolutions submitted and ratifies the actions presented in the for-the-record section.

D.E. Parliamentary Procedure

Except where otherwise noted, the board will be guided by Robert’s Rules of Order Newly Revised, 11th Ed. The board administrator will serve as parliamentarian.

1. Quorum

Robert’s Rule of Order states that a quorum is a majority (more than half) of all the members. A quorum must be present for the board to act. A quorum of the seven-member State Board of Education is four members (ORS 174.130; Opinions of the Attorney General, vol. 41, p. 28, 1980). Absent a quorum, the State Board

¹² State Board of Education Policy Manual, 1997, policy code BDDDB

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of Education may meet for the purposes of gathering information but no formal action may be taken.

2. Voting

All voting board members are expected to participate in voting unless a conflict of interest exists. If a conflict of interest arises, a member will need to excuse themselves from any votes or discussion. A conflict of interest is when an official action by the public official could or would result in a financial benefit or detriment to the public official, a relative of the public official or a business with which either is associated (Oregon Ethics Commission).

A majority of board members are required for a motion to pass. The word “majority” in this context means more than half (RONR (11th ed.), p. 400; see also p. 66 of RONRIB). Votes may be taken either by individually calling member names, by a group voice vote, or by “unanimous consent.” The chair may say, “If there is no objection . . .” If an objection is lodged, a roll call vote must then be taken. Following the vote, the chair will announce vote and whether the motion has failed or passed. All votes must be recorded in the minutes indicating how each member voted.

When a potential conflict of interest exists, the member will announce that conflict and be allowed to vote. When an actual conflict exists, the member will announce the conflict and refrain from participating in the debate or vote unless necessary for a quorum (ORS 244.120). The conflict will be recorded in the minutes (ORS 244.130).

A vote by proxy is a vote cast by a substitute on behalf of a member who is not present at the meeting. Proxy voting is not authorized since no member of the board is empowered to delegate his or her vote to others¹³.

Members of the State Board of Education are discouraged from voting abstention. They should only be used in rare instances with a full explanation to the Board, as outlined in the Oregon Government Ethics Commission Manual.

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¹³ *Attorney General’s Public Records and Meetings Manual*, Appendix C, E Proxy Vote, Absentee Vote, Votes by Mail, and Secret Ballots Prohibited. January 2008, p. C-6.

E.F. Executive Sessions

Members of the State Board of Education will not reveal information learned in executive session to others, and shall keep the lawyer-client privilege that attaches to such a session. Violation of confidentiality will result in that member being barred from future executive sessions and possible removal from the board. The chair has the discretion of allowing board advisors, ex-officio members, staff, and others to attend the meetings. If the chair is aware of a conflict of interest, or potential conflict of interest by members, or that a member is a party in the litigation, the chair will report that conflict to the Office of the Governor. Representatives of the press, unless a party to the litigation, may sit in on executive sessions but may not report on them.

END OF POLICY

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Board Authority/ Individual Authority – Policy #104

Any duty imposed upon the board as a body will be performed at a regular or special meeting and will be made a matter of record¹⁴. For a complete list of statutory responsibilities, see Appendix.

A. Board Committee Authority

The board chair may form committees and workgroups on issues before the board to make more efficient use of meeting time.

Committees and workgroups may schedule meetings and invite stakeholders as needed. Committees and workgroups are expected to make regular reports that include policy issues and recommendations to the full board.

The Executive Committee assists the chair in carrying out his or her duties. The Executive Committee is empowered to act in emergencies requiring immediate action and in which reasonable efforts to convene an emergency meeting or conference call to resolve the issue have not succeeded. Notification of any such action must be conveyed to all board members as soon as possible and action will be ratified at the next regular board meeting¹⁵.

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¹⁴ State Board of Education Policy Manual, 1997, policy code BBAA

¹⁵ 1997 State Board of Education Policy Manual, Code BCE

B. Individual Board Members, Ex-Officio or their designees, and Board Advisors Board members, ex-officio or their designees, and Board advisors will have authority only when acting as a member of the board, ex-officio or their designees and Board advisors ~~when legally in session~~. The board cannot be bound by statements or actions of individual board members, ex-officio or their designees and Board advisors or employees, except when such a statement or action is pursuant to policies of the board or as delegated by the board¹⁶.

Board members, ex-officio or their designees, and Board advisors do not have the authority to direct the staff work. The chair may, however, ask staff, through the board administrator, and in consultation with the Deputy Superintendent, to prepare materials for presentation to the full board. The chair may do this in anticipation of questions board members may have about a specific issue¹⁷.

Any board member, ex-officio or their designees, and Board advisors who desires a written report or survey prepared by the administrative staff will make such a request to the Deputy Superintendent through board staff who will weigh the request with its value to the board and staff workload issues. Individual board member requests will also be distributed to other board members or a notification of the request will be made to each board member¹⁸.

Board members will not presume to speak for the board unless the board has arrived at a formal decision. Members should also be cautious about voicing personal opinions since those views may be interpreted as representing board opinion. Members should not, for example, write a letter to the editor on an education issue, especially a letter signed with his title as board chair, unless the board has authorized it. Members of the board will not use their position or Oregon Department of Education facilities to advocate individual views on an issue without the official sanction of the board¹⁹.

Board members should be especially cautious in becoming involved in matters that may be appealed to the State Board of Education in its judicial function, as

¹⁶ State Board of Education Policy Manual, 1997, policy code BBAA

¹⁷ Language suggested by Oregon Community College Association Governance "Board Operations" section.

¹⁸ Ibid.

¹⁹ State Board of Education Policy Manual, 1997, policy code BBAA

the member may need to be recused from discussion and voting on that matter. For example, it would be inappropriate for a board member to identify themselves as a board member and then testify in favor of the formation of a charter school or to independently contact parties in a matter before the board. This includes but is not limited to requests to speak by the Legislature and local school boards.

END OF POLICY

Staff to the Board²⁰ - Policy #105

The Deputy Superintendent of Public Instruction acts as administrative officer of the State Board of Education (ORS 326.310). The Deputy superintendent may delegate this responsibility to other staff.

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A. Board Administrator & Support Staff

Staff to the board will be responsible for the day-to-day activities of board work including the following:

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- Coordinating the preparation of board agendas, docket items, and minutes in keeping with the Public Records Law.
- Facilitating communication between the board and others, including the Governor, Legislature, Deputy superintendent, state and federal agencies, and state, local, and national organizations.
- Coordinating travel and expense reimbursement to meetings.
- Developing and monitoring expenditures from biennial board budget.
- Coordinating and overseeing board standing and special committees.
- Orienting new members and advisors to board processes and agency function

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²⁰ Summarized from list found in State Board Policy Manual, 1997, policy code BCBB

B. Department of Justice

The State Attorney General's office is the authorized legal counsel for the State Board of Education, the Deputy Superintendent of Public Instruction, and the Department of Education (ORS 180.060; 180.220). No state officer, board, commission, or the head of a department or institution of the state shall employ or be represented by any other counsel or attorney at law (ORS 180.220).

Individual Board members, either governor-appointed, ex-officio, or the designees of ex-officios, do not have access to DOJ as individuals. The Board would need a motion to ask advice and a majority of the Board would need to vote to get the advice. There are very specific criteria that the Board needs to meet in order to enter into executive session under ORS 192.660 which must be identified on the agenda.

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C. Agency Staff

Agency staff will bring issues to the board for policy direction through the Deputy Superintendent of Public Instruction.

Individual board members do not have the authority to direct individual staff work. The chair may, however, ask staff, through the board administrator or, the Deputy Superintendent, ~~or the commissioner~~ to prepare materials for presentation to the full board. The chair may do this in anticipation of questions board members may have about a specific issue²¹. Requests of staff by the full board shall be evaluated in terms of resources and impact on the agency by the ~~commissioner and superintendent~~ Deputy Superintendent who shall report on that impact at the next regular meeting.

Docket items prepared by agency staff should communicate clearly the issue, background on the issue, what problem needs to be solved, and a staff recommendation.

END OF POLICY

²¹ Language suggested by Oregon Community College Association Governance "Board Operations" section.

Board Member Professional Development²² - Policy #106

A. Orientation

The board administrator will orient each new board member and advisers concerning the board's functions, rules, policies, and procedures.

The appointee will be given materials to assist in the orientation to the board's work.

Prior to taking office, the appointee will be invited to attend board meetings and participate in discussions. Staff will supply material pertinent to meetings and will explain its use.

The appointee will be invited to meet the state [Deputy](#) Superintendent and others to discuss services they perform for the board.

B. On-Going Professional Development

Board member professional development opportunities may include but are not limited to participation in conferences, workshops, and conventions held by state and national associations, and subscriptions to publications.

The [Deputy](#) Superintendent or board administrator will inform board members in a timely manner of upcoming conferences, conventions and workshops. The board will decide which meetings appear to be most likely to produce the greatest benefit to the board.

Funds for participation at such meetings will be budgeted. When funds are limited, the board will designate which members would be most appropriate to participate at a given meeting and approve the participation at a board meeting. If the board does not have an opportunity to approve the participation prior to the event date, the board chair may approve the participation. The participation shall be placed on the agenda for approval, and the member will report on the event at the next board meeting.

²² 1997 State Board of Education Policy Manual, Code BH, BHB

If authorized to attend, reimbursement will be for reasonable and necessary expenses actually incurred. For members to attend conferences, the full Board should approve travel for bookkeeping. Members who travel to conferences will report back to the full Board what they learned at the conference.

When a conference, convention or workshop is not attended by the full board, those who do participate will be requested to share, by means of written or oral reports, information, recommendations and materials acquired at the meeting.

END POLICY

Board Partnerships - Policy #107

The State Board of Education works cooperatively with others engaged in improving education for Oregon's PK--20 educational system. These partnerships²³ include, but are not limited to the following:

- The Governor;
- The Legislature;
- The federal government, particularly the US Department of Education;
- The Higher Education Coordinating Commission;
- The Early Learning Council;
- The Governor's Education Policy Advisor;
- Oregon Student Assistance Commission;

Chief Education Office

- The Teacher Standards & Practices Commission;

The Oregon Workforce Investment Board;

- The Oregon Community College Association;
- The Quality Education Commission;
- Local school districts;
- Education Service Districts;

²³ Condensed from policies in the 1997 State Board of Education Policy Manual, Codes LAB, LAC, LB, LBA, LBB, LBCA, LC, LE, LG

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- Educator Advancement Council;
- Youth Development Council;
- Nine Confederated Tribes of Oregon;

~~Oregon's seventeen community colleges through the Oregon President's Council;~~

- The Northwest Association of Schools and Colleges;
- Private schools; and
- Business, industry, and labor

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The board should regularly communicate with members of the Legislative Assembly and be available to them for consideration of educational matters. Similarly, the board encourages its partners to communicate their concerns and needs to the board.

The Deputy Superintendent ~~and commissioner~~ will regularly communicate with the Governor and Legislature regarding the needs of public education.

END OF POLICY

Adoption of Administrative Rules - Policy #108

A fundamental responsibility of the board is the adoption of Oregon Administrative Rules that govern the state's school districts.

The board is the lawful and final authority in formulating policy but may involve those who will be affected. In formulating administrative rules, staff is directed to collaborate with interested parties, provide public notice and consider public comment.

A. Board Process for Permanent Rule-Making

The board will have sufficient time to consider a proposed administrative rule. Once staff has determined the need for an administrative rule, the following steps will be observed:

1. An advisory committee will be created if the proposed rule will have a significant impact on a segment of the board's constituency. If an advisory committee is not formed, then stakeholders will be consulted.
2. Staff will draft the rule. If the rule amends a prior rule, the changes will be clearly displayed, with new language in bold, and deleted language marked as deleted.
3. Staff will bring the proposed rule to the board for a "first reading," showing the proposed changes and review the need for the rule and what the rule accomplishes.
4. Staff will schedule and hold a public hearing on the proposed rule. The hearings officer will summarize the oral testimony presented at the hearing.
5. Staff will revise the rule if advisable.
6. If significant changes are made, the rule will be returned to the board for a "second reading."
7. If significant changes are not made, or following a second reading of the rule, staff will schedule the rule for adoption before the state board.

B. Board Materials

The packet of materials will be sufficient to inform the board of the need for the rule, and what the rule accomplishes. The packet will include a board docket that explains the changes to the rules or policy changes. The Board administrator has discretion to make changes to the docket template according to Board needs. All board packets will be posted to the State Board of Education Boardbook and made public at one week before any board meeting.

1st/2nd Reading: This is when a rule is first introduced to the State Board of Education. Typically, staff presents administrative rules or standards to the State Board. Then discussion of the rule or standard follows. The Board will provide input, ask for changes and ask staff to come back for a Second Reading or action. If no changes are made by the Board, then staff are invited back for adoption the following month. The docket will include:

- Background and explanation of the need for the rule.
- Summary of previous board action.

- Policy issues or concerns raised during the rule writing process or public comment period.
- Equity Impact Analysis
- Fiscal Analysis
- Effects of board approval.
- Rule number and wording with the changes clearly indicated.
- Estimated fiscal impact, as indicated on the board's rule template.

Action: The State Board will vote on a proposed rule. In order for a rule to be adopted, four members of the seven member board, will need to vote yes. ODE staff will submit a board docket outlining changes from the first reading. The docket will be updated and include:

- Background and explanation of the need for the rule.
- Summary of previous board action.
- Policy issues or concerns raised during the rule writing process or public comment period.
- Equity Impact Analysis
- Fiscal Analysis
- Effects of board approval
- Rule number and wording with the changes clearly indicated.
- Estimated fiscal impact, as indicated on the board's rule template.
- Hearings Officer Report, including a summary of oral testimony.
- Written testimony submitted or summary of written testimony submitted.

Consent Agenda: This is a single item that encompasses all the things the board would normally approve with little comment. The minutes, are usually a consent agenda item or perfunctory items such as formal approval of a contract that has been already talked about in past meetings. Board members can make motions to move consent agenda items for board discussion. The full board will need to approve.

C. Notice

An administrative rule will not be voted on without prior public notice unless it is a temporary rule and failure to act promptly will result in serious prejudice to the public interest or the interest to the parties concerned. Such notice will be on the board agenda and include the number of the board rule and the title of the board sufficient to give the public adequate notice of the matter before the board²⁴.

Public notice of a board meeting will be sent out at least one week before any board meeting unless a meeting is called by the Chair due to an emergency.

D. Public Comment

In order to avoid opening up the public comment period, the board will not entertain testimony on a proposed rule after the public comment period has closed on the agenda. This generally will mean public comment will not be taken the month the rule is scheduled for adoption²⁵.

However, this does not in any way foreclose the board members from discussing and debating among themselves the merits of the proposed rules at a meeting. The board is also free to ask questions and seek input from ODE staff at the meeting. Finally, the limits discussed above apply to comments that are received by the board as a body. Individual board members are free to discuss board business, including proposed rules, with members of the public.

E. Temporary Rules

When the failure to immediately modify, adopt, or suspend a rule will result in serious prejudice to the public interest or the interest of the parties concerned, the board may enact a temporary rule with an effective period of no more than 180 days.

No prior notice, hearing, or board meeting is necessary prior to a temporary rule adoption. Staff will include the following information in their written docket item:

- An explanation as to why immediate action is needed.

²⁴ 1997 State Board of Education Policy Manual, Code BF

²⁵ Letter of advice from DOJ attorney McKeever, Joe

- A copy of the proposed rule language.
- A list of principal documents, reports, or studies, if any, prepared by the agency or relied upon by the agency when considering the need for the rule and writing the rule.

F. Vote

The adoption, amendment, or repeal of administrative rules will be accomplished by recorded vote with the result entered in the minutes.

END OF POLICY

Reimbursement - Policy #109

A. General Travel Policy

A member of the Board is entitled to compensation and expenses as provided in ORS 292.495. Board members will be reimbursed for those costs incurred in participating in regularly scheduled board meetings, Joint Boards of Education meetings, board committee meetings, and other board business events approved by the board.

Members will keep the chair or board staff apprised of activities undertaken on behalf of the board and will seek approval of the activity prior to the activity or travel. All state-funded out-of-state travel will be reviewed and approved in advance by the board at one of its regular meetings except for emergency requests which may be approved by the board Executive Committee²⁶. Any activities undertaken on behalf of the board will be reported at the next regularly scheduled board meeting.

Board approval is to ensure that such travel is aligned with board budget priorities, within the board budget, and will be part of the board budget oversight responsibility. Reimbursements will be made in accordance to Department of Administrative Services (DAS) travel policies (OAM 40.10.00.PO).

²⁶ From 1997 State Board of Education Policy Manual, 1997, policy code BHD

B. Lodging Reimbursement

Board staff will arrange for lodging of board members prior to meetings when possible, and will make direct payments to the hotel. Such a practice is designed to reduce board members' out-of-pocket expenses. Staff is directed to follow DAS lodging rates whenever possible.

Travelers are eligible for lodging reimbursement when the one-way distance from their homes is 70 miles or more. Exceptions may be made in special cases that include inclement weather and medical conditions. Individuals traveling on official state business who share lodging will each be reimbursed for their equal share of the allowed per diem for that location. Persons sharing with a family member or friend will be reimbursed for the allowed lodging single room rate expense for that location (ODE Travel, Parking, and Expense Claims procedure).

C. Meal Reimbursement

Meal per diem rates vary depending on departure and arrival times and also if the trip is overnight or non-overnight. Rates (for overnight and non-overnight trips and high-cost locations) can be obtained from the ODE travel management system.

D. Other Board-Related Business Reimbursement

Board members may travel and incur expenses for board-approved events. Requests for reimbursement will include some documentation of the event such as an agenda or e-mail setting up the meeting and any other documentation that supports the request, such as receipts

E. Forms

Board members will use those reimbursement forms provided to them to facilitate timely reimbursement. Additional documentation may be attached to the claim form.

END OF POLICY

Section C: Policies Relating to the Department of Education

Delegation of Authority to State Deputy Superintendent²⁷- Policy #300

The State Board of Education will delegate to the state Deputy Superintendent, as its administrative officer, authority for administering rules and policies that fall under the scope of the Oregon Department of Education. Functions delegated to the Deputy Superintendent include the following:

1. Applying for and accepting federal funds, and entering into any contracts or agreements on behalf of the state for the receipt of such federal funds (ORS 326.051).
2. Accepting money or property donated for the use or benefit of public kindergartens, elementary, secondary schools, and using the funds for the purpose it was donated (ORS 326.051).
3. Appointing such personnel as may be necessary for the performance of the duties of the office of the superintendent (ORS 326.310).
4. Obtaining and compiling statistical information relative to the condition and operation of the public schools (ORS 326.310).
5. Administering adult education programs in the public elementary and secondary schools (ORS 326.310); the board shall retain its supervisory responsibilities.
6. Annotating and compiling all school laws (ORS 326.320).
7. Receiving any revenue as a result of ownership/management of intellectual property (ORS 326.530).
8. Distributing board-adopted administrative rules to school districts (ORS 326.565).
9. Soliciting and accepting funds for the Prekindergarten Program Trust Fund and Early Childhood Education Trust Fund (ORS 329.183, 329.228).
10. Distributing prekindergarten funds (ORS 329.195).

²⁷ With the exception of the list of 15 specific statutory board responsibilities, the language is from the 1997 State Board of Education's Policy Manual_Code CB

11. Coordinating, implementing and assisting public high schools in identifying local and regional needs and resources available for American Sign Language courses (ORS 329.489).
12. Enforcing the requirement that school districts give individual, written notice of reasonable assurance of continued employment to all classified school employees (ORS 332.505).
13. Developing curriculum to commemorate the formation of the provisional government at Champoeg (ORS 336.023).
14. Reporting to the public the textbooks and instructional materials the board adopts (ORS 337.080).
15. Contracting with board approved textbook publishers (ORS 337.090).

Should a policy decision by the [Deputy Superintendent](#) be necessary in an emergency where no board policy has been adopted, the [Deputy Superintendent](#) will have the authority to make a decision and will notify the board. The decision will be subject to the approval of the board at its next regular meeting.

The following issues will be referred to the board:

1. Situations that conflict with current board policy; Situations where no policy currently exists;
2. Matters involving major differences of opinion that could not be resolved administratively;
3. Contracts that would be binding upon the board. Such contracts, which must be within budget limitations, will be presented at the next regular board meeting;
4. Any other matter which the [Deputy Superintendent](#) wishes to call to the board's attention.

END OF POLICY

Department Budget²⁸ - Policy #301

The State Deputy Superintendent of Public Instruction will direct the preparation of the Department of Education's budget with input from the State Board of Education in the form and manner required by the Department of Administrative Services. To allow for consideration by the board, budget discussions with the board will begin at least ~~six~~ four months before the executive department's deadline for filing the budget document.

Proposals brought to the board for ~~review~~ input by the Deputy Superintendent will be based on realistic assessments of the needs and priorities of the state's educational system. Proposals will be justified with statements which suggest both benefits to and impact on local and state programs. Cost projections will include estimates of expenditure requirements for currently approved programs and activities and for new or revised programs and activities as recommended by the superintendent or requested by the board.

The board will receive an update on ODE's proposed budget to the Governor and provide input to the Deputy Superintendent.

adopt and submit budget proposals to the Governor that:

1. — Reflect the board's goals and priorities; the Oregon Progress Board's benchmarks; agency key performance measures; and statewide, long-range plans for education;
2. — Reflect the needs of the elementary, secondary, community college systems and other programs under the authority of the State Board of Education;

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²⁸ 1997 State Board of Education Policy Manual, Code DB

~~3. — Include base budget requests based on needs and work load increases related to essential services and maintenance and improvement of the agency;~~

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~~4. — May require companion legislation designed to ensure availability of funding for statutorily required activities.~~

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~~Interested parties will be able to review and comment on proposals prior to the date they are submitted to the Department of Administrative Services. The board reserves the right to consult directly with the Governor on matters of concern.~~

END OF POLICY

Charter School Waiver Process - Policy # 302

A. Request for a Waiver

Pursuant to ORS 338.025, a public charter school (charter school) that has been approved for sponsorship may request the waiver of any provision of ORS 338 (Public Charter School law) by the State Board of Education, as allowed by law ~~if the waiver promotes the development of programs by providers, enhances the equitable access by underserved families to the public education of their choice, extends the equitable access to public support by all students or permits high quality programs of unusual cost. ORS 338.025.~~

B. Content of Waiver Request

Such a request must be in writing and comply with the timeline and format published by the Department annually in the Process to Request a Charter School Waiver. ~~addressed to the State Board of Education.~~ Pursuant to OAR 581-020-0130(2)026-0130 ~~and, the request should~~ include the following elements:

1. The ORS law to be waived.
2. The specific reason(s) the charter school is seeking the waiver and any other relevant information.
3. The impact the waiver will have on the school.

4. Evidence that the sponsor has been notified as required under OAR 581-026-0130(2).
5. How the waiver will promote the development of programs by providers, enhance the equitable access by underserved families to the public education of their choice, extend the equitable access to public support by all students, or permit high quality programs of unusual cost. (ORS 338.025; OAR581-026-0130(3))
6. Whether the sponsoring school district supports the law waiver request.

C. Review Process

Upon receipt of the request, board or ODE staff shall acknowledge receipt of the request ~~to the charter school principals requesting the waiver~~, and shall assign staff to review the request. Staff will evaluate whether the waiver request for the following elements:

1. Enhances the equitable access by underserved families to the public education of their choice,
 2. Extends the equitable access to public support by all students,
 3. Promotes the development of programs by providers, or
 4. Permits high quality programs of unusual cost.
- ~~1. Whether the request is allowed under state law.~~
 - ~~2. Whether the board has received and approved similar requests.~~
 - ~~3. Whether the sponsoring school district supports the waiver.~~
 - ~~4. Who, if anyone, is likely to oppose the request.~~
 - ~~5. What policy issues the request raises, if any.~~
 - ~~6.5. The impact on students, other school districts, other entities, and the state's education system, if any.~~

Reviewing staff will complete an equity impact analysis and provide the charter school with an opportunity to answer questions and clarify the waiver request

~~before a recommendation is made to the Board. Reviewing staff will present evaluation to the Deputy Superintendent who will make a recommendation to the Board. Each waiver request will be scheduled for a first read and then a second read and decision. notify board staff upon completion of the review, notify the requestors of the results of the review (recommend waiver or not), and schedule the item for board review as an information item.~~

D. Board Review

The contents of the docket item shall be written by the staff reviewer and shall include, at a minimum:

1. The name of the charter school and its sponsor;
2. How long the charter school has been operating;
3. The ORS law to be waived and its content;
4. Whether the sponsoring school district supports the waiver;
5. Any other support and opposition to the waiver submitted to the Deputy Superintendent;
6. The impact on students, other school districts, other entities, and the state's education system, if any;
7. Any correspondence or supporting documents from the charter school, district, or others concerning the request; and
8. A recommendation as to whether the request should be granted or not, and the reasons for the recommendation.

Upon review by the board, board members may request additional information from the Deputy Superintendent regarding the waiver. The item shall be scheduled for action as soon after the ~~initial hearing~~ first reading, generally at the following board meeting.

~~Should the charter school principals want to make a presentation to the board directly, such requests will be made to board staff and decided by the board chair.~~
Hearing

~~If waiving the statute(s) has statewide impact, the State Board of Education may schedule a public hearing on the issue prior to making a decision. The hearing may be scheduled during a regular board meeting or may be delegated to the~~

~~Deputy Superintendent to schedule at a different time and place. If the hearing takes place separately from a regularly scheduled board meeting, testimony shall be summarized for board members to consider.~~

E. Decisions

Within 120 days of receipt of the ~~waiver request~~proposal, the board will act upon the request. The time period may be extended for good cause. Once the board has voted on whether to grant the waiver or not, the decision shall be communicated to the charter school and the sponsoring school district in a timely manner. Decisions shall also be logged in a reference document identifying the name of the charter school, the waiver requested, and the date the board decided the request. Such a log will aid in the research of future waiver requests.

END OF POLICY

Charter School Denial Review/ State Board of Education Sponsorship Requests Policy #303

A. Review of School District Decision

Following the district denial of a resubmitted charter school proposal, the applicant may request that the State Board of

Education review the decision of the school district board within 30 days of the local board's decision to deny (~~ORS 338.075/agency timelines~~ OAR 581-026-0065). The request should be accompanied by the most recent charter proposal submitted to the district and the district's written response to that proposal. ODE staff will notify the district of the request for review and possible sponsorship and will request the full record of board (including subcommittees) discussions of the proposal. The board delegates to the Deputy Superintendent of public instruction or designee all administrative functions necessary to conduct the review (OAR ~~581-020-0331-026-0065~~). The Deputy Superintendent shall determine whether the school district board used the required process, whether the proposal meets

the evaluation criteria, and whether the reasons stated by the district board for the denial are valid and align with the evaluation criteria. The review shall be concluded with a report detailing the determination and sent to the charter school developer, the district and included with the Board docket. Staff will attempt to mediate a resolution between the applicant and the district board, and may recommend revisions to the proposal; mediation will be completed within 60 days of the department's receipt of the request to review. If mediation fails, the board may sponsor the charter school if the school meets the legal requirements set forth in law (ORS 338.075).

B. Request for Sponsorship Recommendation to the Board

Following the review determination, the Deputy Superintendent shall present a recommendation for the Board to either uphold the decision of the school district board to deny the resubmitted proposal, remand the resubmitted proposal back to the school district board for reconsideration if the district and the charter school agree to the remand, or consider becoming the sponsor of the charter school.

If the Board decides to uphold the denial, notice will be sent to the charter school and the school district.

If the Board decides to remand the proposal, the charter school and school district will be consulted about whether they agree to the remand. If both parties agree, notice will be sent to the charter school and the school district. If one or both parties do not agree to the remand, the Board will either uphold the denial or consider becoming the sponsor. The Board will send notice of its decision to the charter school and the school district.

If the Board decides to consider sponsoring the charter school, the Board will complete a rigorous evaluation of the proposal.

Upon failure of mediation, the applicant may request that the State Board of Education sponsor the charter school (ORS 338.075) within 30 days of being notified of the completed mediation (agency timeline). The request should be accompanied by the most recent charter proposal submitted to the district,

~~including any revisions agreed upon during mediation. The board decision to sponsor a charter school shall be based on the most recent charter proposal submitted to the district including any revisions agreed upon during mediation. The state shall not participate in negotiations that significantly amend the most recent charter proposal rejected by the local school district. However, minor changes needed to accommodate board sponsorship and state oversight may be made.~~

~~Such a request for state board sponsorship from the charter school applicant must be in writing, such as e-mail, to the board chair, with board staff copied on the request. Board staff will then make a note of this pending request.~~

C. Sponsorship Review Process

Pursuant to OAR 581-026-0065(6)(a), the Board shall complete a rigorous evaluation of the proposal before deciding to sponsor the charter school. The evaluation shall be completed by department staff using the criteria in ORS 338.005 and the State Board of Education’s Guide to Charter School Sponsorship. The guide shall include a rubric for evaluating the requirements in ORS 338.045 and the evaluation criteria in ORs 338.055.

In addition, the department may evaluate the proposal for how the charter school proposal meets the goals of the charter school law (ORS 338.015):

1. Increase student learning and achievement.
2. Increase choices of learning opportunities for students.
3. Better meet individual student academic needs and interests.
4. Build stronger working relationships among educators, parents and other community members.
5. Encourage the use of different and innovative learning methods.
6. Provide opportunities in small learning environments for flexibility and innovation.

7. Create new professional opportunities for teachers.
8. Establish additional forms of accountability for schools.
9. Create innovative measurement tools.

Prior to concluding the proposal evaluation, the Department shall conduct an interview of the charter school developer team and board of directors. Board members shall be notified of the interview and may participate in the interview process. If enough Board members want to participate that a quorum will be formed, the interview will be scheduled as a special meeting of the board.

Upon completion of the review process and interview, Department staff shall coordinate with the Deputy Superintendent to prepare a recommendation for the Board.

~~Pursuant to ORS 338.075(3), the state board may reject a request to sponsor a charter school if the school fails to meet the requirements of ORS Chapter 338.~~

~~Staff shall evaluate the proposal using the criteria in ORS 338.055, OAR 581-020-0331, and the Department of Education's Guide to State Board of Education Charter School Sponsorship:~~

- ~~1. — Compliance with state and federal law.~~
- ~~2. — The demonstrated, sustainable support for the public charter school by teachers, parents, students and other community members, including comments received at the public hearing held by the district;~~
- ~~3. — The demonstrated financial stability of the public charter school;~~
- ~~4. — The capability of the applicant, in terms of support and planning, to provide comprehensive instructional programs to students pursuant to an approved proposal;~~
- ~~5. — The capability of the applicant, in terms of support and planning, to specifically provide, pursuant to an approved proposal, comprehensive~~

~~instructional programs to students identified by the applicant as academically low achieving;~~

~~6. — The extent to which the proposal addresses the information required in ORS 338.045;~~

~~7. — Whether the value of the public charter school is outweighed by a directly identifiable, significant and adverse impact on the quality of the public education of students residing in the school district in which the public charter school will be located;~~

~~8. — Whether there are arrangements for any necessary special education and related services for children with disabilities pursuant to ORS 338.165; and~~

~~9. — In the case of a conversion from an existing public school, 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.~~

In addition, the department may evaluate the proposal for how the charter school proposal meets the goals of the charter school law (ORS 338.015):

~~1. — Increase student learning and achievement.~~

~~2.1. — Increase choices of learning opportunities for students.~~

~~3.1. — Better meet individual student academic needs and interests.~~

~~4.1. — Build stronger working relationships among educators, parents and other community members.~~

~~5.1. — Encourage the use of different and innovative learning methods.~~

~~6.1. — Provide opportunities in small learning environments for flexibility and innovation.~~

~~7.1. — Create new professional opportunities for teachers.~~

~~8.1. — Establish additional forms of accountability for schools.~~

~~9.1. — Create innovative measurement tools.~~

D. Recommendation

Reviewing staff will prepare a summary document ~~and to accompany the Deputy Superintendent's~~ recommendation regarding sponsorship. The recommendation and supporting documentation will be given to the ~~Deputy Superintendent of Public Instruction, the developer~~ charter school developer and local district. ~~ODE staff will make its recommendation to the Deputy Superintendent within 60 days of the completion of mediation, however the time period may be extended for good cause.~~ Department staff will schedule the item for board consideration as a first read and then a second read and decision.

~~Reviewing staff will also notify board staff upon completion of the review and schedule the item for board consideration as an information item as soon as feasible.~~

E. Board Review Hearing

1. Contents

The contents of the docket item shall be written by the staff reviewer and shall include, at a minimum:

- a. The name of the charter school and its school district.
- b. The proposal.
- c. Any additional materials requested by staff reviewers.
- d. Reasons for local school board denial of sponsorship request.
- e. Any policy issues the request raises.
- f. A recommendation and the reasons for the recommendation.

Upon review by the board, board members may direct staff for additional information regarding the sponsorship request. The item shall be scheduled for action as soon as possible after the initial hearing ("first reading") before the board, generally at the next regularly scheduled board meeting.

2. Presentations by Proposed School and District

In the letter containing the staff recommendation that is sent to the applicants and the district, both the applicants and the district will be informed of their option to make a 15-minute presentation before the board. Such presentations will be made at the board's first hearing of the item, unless the board chair determines otherwise for good cause.

Reviewing department staff shall notify board staff of any planned presentations and request enough time for the one or two presentations in addition to the presentation of the staff presentation and recommendation. An outline of the presentations from the applicants and the district is required and will be included in the staff packet on the item.

F. Board Decision

The State Board will consider the recommendation of the superintendent and any other information it deems relevant when determining to reject or sponsor the school. The board's decision will be made within 75 days of receipt by the State Board of the superintendent's recommendation, unless extended for good cause (OAR 581- ~~020-0331~~ 026-0065(7)).

Once the board has voted on whether to sponsor the school or not, the decision shall be communicated to the charter school and the sponsoring school district in a timely manner by department staff. Decisions shall also be logged in a reference document identifying the name of the charter school, the waiver requested, and the date the board decided the request. Such a log will aid in the research of future sponsorship requests.

G. Operation

Research has shown that adequate planning time to develop a quality infrastructure is critical to a charter school's success. A State Board of Education Charter School will need a minimum of nine months before the school opens to students for such planning. If a developer can demonstrate the capacity to open

and operate a fully functioning school in a shorter time-period, special permission may be granted.

END OF POLICY

Charter School Contract Renewal Request Process - Policy #304

A. Request for Renewal

Pursuant to ORS 338.065, a public charter school that has been operating under the sponsorship of the State Board of Education may request renewal of its contract in writing within one year of the contract's expiration but at least 180 days prior to the expiration of the charter. Requests shall be directed to the Department of Education's Charter School Education Specialist.

The board shall base its decision to renew on a good faith evaluation of whether the charter a) is in compliance with this chapter and all other applicable state and federal laws; b) is in compliance with the charter of the public charter school; 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 has used the sound financial management system described in the proposal submitted under ORS 338.045 and incorporated into the written charter; and e) is in compliance with any renewal criteria specified in the charter of the public charter school.

ODE shall base the renewal evaluation primarily on a review of the school's annual performance reports, annual audit, and annual site visit and any other information mutually agreed upon.

B. Request Contents

Required information in the request shall be the following information:

The Record of Performance

1. Academic Performance

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- a. Using the results contained in the Performance Framework, explain whether or not the school has met its performance expectations.
- b. Provide any academic performance-related evidence, supplemental data, or contextual information that may not be captured in authorizer records. Submissions may include supplements related to the Renewal Performance Report. Please reference the specific Performance Framework measures to which the information applies, as appropriate.
- c. Provide evidence of outcomes related to any mission-specific academic goals and measures established in the charter contract (if not already captured in Renewal Performance Report).

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2. Financial Performance

- a. Provide evidence that the school is currently in meeting its liabilities, including but not limited to payroll taxes, debt service payments, and employee benefits.
- b. Provide any financial performance-related evidence, supplemental data, or contextual information that may not be captured in authorizer records. Submissions may include, but are not limited to, updated financial records and other updates regarding the Renewal Performance Report. Please reference the specific Performance Framework measures to which the information applies, as appropriate.

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3. Organizational Performance

- a. Provide any organizational performance-related evidence, supplemental data, or contextual information that may not be captured in authorizer records. Submissions may include evidence of current compliance in areas for which the school was found previously to be non-compliant or other updates relevant to the Renewal Performance Report. Please reference the specific Performance Framework measures to which the information applies, as appropriate.
- b. Provide evidence of outcomes related to any school-established organizational goals, as appropriate.

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Plans for the Next Charter Term

1. Educational Program

a. Describe any significant changes to the essential terms of the school’s educational program. Essential terms are those included, either directly or by incorporation, in the school’s existing charter contract that relate to its educational program, including but not limited to the school’s mission, course of study, instructional program, grade levels served, and, if applicable, any mission-specific goals.

2. Financial Plans

a. Provide a five-year projected budget for the next charter term. The budget narrative should make clear the assumptions on which the school bases its key revenue and expenditure projections. In addition, the budget and narrative should describe any anticipated changes to the school’s financial position and clearly articulate the financial impact of any proposed modifications on other aspects of the school’s education program and operations (e.g., new curriculum or instructional materials, modified staffing structure, decreased or increased enrollment, etc.).

3. Organizational Plans

a. Describe any anticipated changes to the governance of the school, including but not limited to board composition, committee structure, and/or amendments to by-laws.

b. Describe any anticipated changes to the school leadership or staffing model and any proposed changes to the management of the school, including any changes to the school’s relationship with a third-party education service provider, if one exists. If the school does not currently contract with an ESP but intends to do so during the next charter term, if the school currently contracts with an ESP but does not intend to continue to do so during the next term, or if the school intends to make material modifications to its existing management agreement, the school must contact the authorizer for additional information prior to the submission of this application.

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c. Describe the current status of the school facility and discuss any anticipated changes in facilities needs or location. Ensure that the budget narrative in section 2 explains how the school’s facilities plans are reflected in the budget.

Local District Relationship

1. Provide evidence that the charter school has notified the district in which the charter school is located of the charter school’s intent to request a contract renewal.

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Optional, but recommended information to be included:

1. How the school has increased choices of learning opportunities for students in the community. How the school better meets individual student academic needs and interests.
2. How the school has built stronger working relationships among educators, parents and other community members.
3. How the school has encouraged the use of different and innovative learning methods.
4. How the school has provided opportunities in small learning environments for flexibility and innovation.
5. How the school has created new professional opportunities for teachers.
6. How the school has established additional forms of accountability for schools.
8. How the school has created innovative measurement tools.

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C. Renewal Preparation
Application Review

Upon receipt of a contract renewal request, ODE staff shall review the submitted materials for completeness and notify the requestor of any deficiencies within 30 days of receipt.

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D. Board Review

Docket Item

ODE staff will prepare a summary document and recommendation regarding renewal as a first reading of the item. Reviewing staff will also notify board staff upon completion of the review and schedule the item for board consideration as an information item as soon as feasible.

The contents of the docket item shall be written by the staff reviewer and shall include, at a minimum: The name of the charter school;

1. How long the charter school has been in operation;
2. Student academic progress or other student progress factors
3. A summary of the materials submitted by the charter school, with the full materials available
4. A summary of the charter school's and the Department's notification of the charter school's renewal request to the local school district in which the charter school is located;
5. A summary of prior annual evaluations of the school, including any issues that have come to the attention of ODE
6. The impact on students, other school districts, other entities, and the state's education system, if any;
7. Any correspondence or supporting documents from the charter school, district, or others concerning the request; and
8. A recommendation as to whether the request should be granted or not, and the reasons for the recommendation.
9. Charter Application Renewal will be added to the docket.

In addition to the State Board of Education, the docket item will be provided to the Deputy Superintendent of Public Instruction, the charter school governing board, and the resident district.

Upon review by the board, board members may direct staff for additional information regarding the sponsorship request. The item shall be scheduled for

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action as soon as possible after the initial hearing before the board, generally at the next regularly scheduled board meeting.

E. Public Hearing

Within 45 days²⁹ of receiving a written renewal request from a charter school governing body, ODE shall hold a public hearing regarding the request for renewal. The hearing will take place within the school district where the charter school is located. Written comments will be accepted in lieu of oral testimony.

F. Board Hearing

In the letter containing the staff recommendation that is sent to the applicants and the district, both the applicants and the district will be informed of their option to make a presentation before the board. Such presentations will be made at the board's first hearing of the item, unless the board chair determines otherwise for good cause. The board chair shall determine presentation lengths. Reviewing department staff shall notify board staff of any planned presentations and request enough time for the one or two presentations in addition to the presentation of the staff presentation and recommendation. An outline of the presentations from the applicants and the district is required and will be included in the staff packet on the item.

G. Decision

Within 30 days³⁰ after the public hearing the board shall approve the renewal or state in writing the reasons for denying the renewal. Once the board has voted on whether to renew the contract or not, the decision shall be communicated to the charter school and the school district in which the charter school is located in a timely manner.

Renew

²⁹ ORS 338.065(5)(c) unless charter language specifies another timeframe for renewals

³⁰ ORS 338.065(4)(d) unless charter language specifies another timeframe for renewals

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If the State Board of Education approves the renewal of the charter, the sponsor and the charter school governing body shall negotiate a new charter within 90 days after the date on which the sponsor approved the renewal of the charter unless the sponsor and charter school governing body agree to an extension of the time period. An expiring charter shall remain in effect until a new charter is successfully executed.

Deny and Reconsideration

If the State Board of Education does not renew the charter, the charter school governing body has 30 days to address the reasons stated by the board for the denial and any remedial measures suggested by the State Board of Education and submit a revised request for renewal to the department.

If the State Board does not renew based on the revised request for renewal, the public charter school governing body may seek judicial review of an order of the state board pursuant to ORS 183.484 for a review of whether the state board used the process required by law for renewal.

H. Contract Periods

Pursuant to ORS 338.065, the first contract between a charter school and the State Board of Education shall be in effect for a period of not more than five years. The first renewal of a charter shall be for the same time period as the initial charter. Subsequent renewals of a charter shall be for a minimum of five years but may not exceed ten years. The State Board of Education generally supports five year terms unless other circumstances have been documented.

END OF POLICY

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Charter School Contract Amendment Request Process - Policy #305

A. Request for Contract Amendment

Amendments may be requested mid-contract by either the State Board of Education or the charter school sponsored by the state board. Amendments must be agreed upon by both parties.

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B. Request by the State Board of Education

Such a request must be in writing and addressed to the governing board of charter school, with a copy to the principal of the charter school and the resident school district. The request must contain the following:

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1. The existing contract language proposed to be changed,
2. The proposed change,
3. The reasons for the requested change, and
4. The impact of the change on the school, students, parents, community, and resident school district.

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C. Request by the Charter School

Such a request must be in writing and addressed to the State Board of Education, with a copy to the resident school district. The request must contain the following:

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1. The existing contract language proposed to be changed,
2. The proposed change,
3. The reasons for the requested change, and
4. The impact of the change on the school, students, parents, community, and resident school district.

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D. Resolution

Within 30 days of the request, the parties shall meet (may teleconference) to discuss the proposal. Within 60 days, the party subject to the request must notify the other party in writing as to the decision. A copy of the decision shall be sent to the resident school district.

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If the decision is to amend the contract, such a change will be completed within 60 days of the decision. Legal costs may be paid by the entity making the request.

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Termination of Charter School Contract - Policy #306

The State Board of Education may terminate the charter contract for a board-sponsored school for those reasons found in ORS 338.105.

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A. Grounds for Termination

Grounds for termination are set forth below:

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1. Failure to meet the terms of an approved charter or state law.
2. Failure to meet the requirements for student performance stated in the charter.
3. Failure to correct a violation of a federal or state law that is described in ORS 338.115.
4. Failure to maintain insurance as described in the charter.
- 1.5. Failure to maintain financial stability.
- 2.6. Failure to maintain, for one or more consecutive years, a sound financial management system.

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If the sponsor reasonably believes that a public charter school is endangering the health or safety of the students enrolled in the charter school, ODE may act to immediately terminate the approved charter and close the school without providing the notice requirements set forth below:

- Notification of Termination

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The State Board shall notify the charter school governing body at least 60 days prior to the proposed effective date of the termination. The notice shall state the grounds for the termination. The decision must be made at a public meeting.

- Plan to Correct Deficiencies

If the reason for termination is 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 charter school may attempt to correct deficiencies related to financial stability or a sound financial management system by a date identified by ODE which may not be less than 60 days from the notice, which will extend the termination date.

ODE may withhold in trust up to 50% of the funds owed the charter school while the school works to correct deficiencies. A deadline to correct deficiencies may be extended by mutual agreement. A charter school governing board may request a hearing by the sponsor in relation to a termination or plan to correct deficiencies.

- Appeal

A charter school may appeal a decision to terminate to the circuit court pursuant to ORS 183.484.

If the termination was immediate and the result of a health or safety concern, the governing body of the charter school may request a hearing by the ODE. 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 charter school with the opportunity for a hearing on the termination.

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Section D: Joint Boards of Education Bylaws

Joint Board of Education Bylaws – Policy #400

~~Oregon State Board of Education~~

~~A. Statement of Purpose~~

~~These bylaws are adopted pursuant to ORS 348.890 to provide a procedure for joint meetings of the State Board of Education and the Higher Education Coordinating Commission.~~

~~B. Call, Time and Place of Meetings~~

~~The two boards will meet jointly at least three times each legislative biennium. A meeting may be called by the presiding officer of either of the boards on reasonable notice to the other board, at a location to be determined by the presiding officers.~~

~~C. Agenda~~

- ~~• The business of a joint meeting will be issues on which one or both boards have jurisdiction or in which actions taken by one will affect the other.~~
- ~~• The agenda for each meeting will be set jointly by the presiding officers.~~
- ~~• Meetings of the Joint Boards will be held in compliance with the open meetings law.~~

~~D. Presiding Officer~~

~~The responsibility to preside over Joint Boards meetings will alternate between the presiding officers of the boards. In the absence of the presiding officer, his/her designee will preside.~~

~~E. Quorum and Decision~~

- ~~• Joint meetings will constitute official meetings of each of the boards.~~
- ~~• A quorum for a joint meeting is a quorum of each board.~~
- ~~• Action taken in joint session will be binding and deemed official action of each board, but only if such action is approved by a majority of each board present at the meeting.~~

~~F. Committees~~

- ~~• Each board will select annually three of its members to serve on a Joint Boards Working Group. The Working Group will be responsible for developing the agenda for joint meetings, position papers on issues of concern to the two boards, and related information. The Working Group will be staffed jointly by staff members of the Higher Education Coordinating Commission and State Department of Education as the working group deems appropriate.~~
- ~~• Ad hoc committees may be formed and appointments made thereto by the presiding officer of each of the boards. The purpose and all activities of an ad hoc committee will be subject to the approval of the appointive board through periodic reports to the appointive board and a report to the Joint Boards.~~

G. Minutes

The presiding officer of each joint meeting will arrange for the taking and preparation of minutes, which will be promptly circulated for approval by each board.

H. Proceedings

Joint meeting proceedings will be governed by the most recent edition of *Robert's Rules of Order (Revised)*.

I. Adoption, Amendment, and Repeal of Bylaws

These Bylaws may be adopted, amended, or repealed by concurrence of a lawful majority of each body, acting individually or jointly. No amendment will be contrary to the laws of Oregon or the rules of the bodies.

END OF POLICY

Section E: Appendices

Budget Note

The Department of Administrative Services (DAS) will work with the Legislative Fiscal Office (LFO) to develop best management practices performance measures with respect to governance oversight for applicable boards and commissions. The best practices measures and a list of entities to which these measures should apply will be approved by the Joint Legislative Audit Committee (JLAC) by August 1, 2006. Boards and commissions identified as benefiting from adoption of these measures shall adopt them as Key Performance Measures after they are approved by JLAC. The performance measures should then be made part of the set of

performance measures included in the 2007-2009 requested budget of each affected agency.

Boards and Commissions Types

The Governor’s Web site identifies over 200 different boards and commissions.

There are several types of boards and commissions that do different things

Boards and Commissions Types and Functions

Boards and Commissions Types and Functions

Type	Function
Governing and licensing boards	Are responsible for directing state agency, policy guidance and/or appointing the agency director. Licensing boards also examine and license members of a profession or occupation.
Policy making boards	Are given statutory power by the legislature to make policy decisions and enforce regulations, however, they do not appoint agency or executive directors.
Advisory boards	Serve as advisors on policy matters to their appointing authority who is responsible for the management and administration of the policy.
Judgment boards	Created by the legislature as review and appeals boards which hear and rule on individual cases.

List of Applicable Boards and Commissions

The budget note asked that best practices be developed to assist boards and commissions that have governance oversight²¹. To isolate applicable boards, two criteria were established:

- The board has an independent state budget or is included in another state agency’s budget.

²¹ Throughout the rest of the document the word board is used generically to represent entities with governance oversight.

- ~~The board hires the agency or board's executive director.~~

~~Applying these criteria to the Governor's list of boards and commissions produced the following list of candidate boards³².~~

Salaries and Expenses of Nonelective State Officials

292.495 Compensation and expenses of members of state boards and commissions. (1) Subject to the availability of funds therefor in the budget of the state board or commission, and except as otherwise provided by law, any member of a state board or commission, other than a member who is employed in full-time public service, who is authorized by law to receive compensation for time spent in performance of official duties, shall receive a payment of \$30 for each day or portion thereof during which the member is actually engaged in the performance of official duties.

(2) Except as otherwise provided by law, all members of state boards and commissions, including those employed in full-time public service, may receive actual and necessary travel or other expenses actually incurred in the performance of their official duties within the limits provided by law or by the Oregon Department of Administrative Services under ORS 292.210 to 292.250.

(3) As used in subsection (2) of this section, "other expenses" includes expenses incurred by a member of a state board or commission in employing a substitute to perform duties, including personal, normally performed by the member which the member is unable to perform because of the performance of official duties and which by the nature of such duties cannot be delayed without risk to health or safety. No member shall be reimbursed for expenses incurred in employing a substitute in excess of \$25 per day. [1969 c.314 §1; 1973 c.224 §2; 1975 c.441

³² ~~The list does not include semi-independent agencies because they operate outside budget control. These groups are subject to the same administrative and financial guidelines as other agencies, and are currently working on identifying their own list of best practices.~~

§1; 1979 c.616 §1]

SUBSISTENCE AND MILEAGE ALLOWANCES FOR TRAVEL BY STATE OFFICERS AND EMPLOYEES

292.210 Definitions for ORS 292.210 to 292.230. As used in ORS 292.210 to 292.230, unless the context otherwise requires:

- (1) "State agency" has the same meaning as provided in ORS 291.002.
- (2) "State officer" means any elected or appointed state officer, including members of boards and commissions. [Amended by 1953 c.623 §3; 1971 c.153 §1]

292.220 Department to regulate subsistence and mileage allowances for travel; rules. The amounts and nature of subsistence allowances for travel, and the rate of mileage allowance for travel by private automobile, payable by state agencies, shall be established and regulated by the Oregon Department of Administrative Services within any limits that may be prescribed by statute. The department shall prescribe by rule the conditions under which allowances for travel by private automobile may be made. [Amended by 2005 c.22 §215]

292.230 Policy on out-of-state travel; guidelines; use of travel awards; rules. (1) It is the policy of the state that all out-of-state travel by state agency personnel shall be allowed only when the travel is essential to the normal discharge of the agency's responsibilities. Out-of-state travel shall be conducted in the most efficient and cost-effective manner resulting in the best value to the state. The travel must comply with requirements of rules adopted under subsection (5) of this section. State agencies shall adhere to the following guidelines when using out-of-state travel:

- (a) All out-of-state travel must be for official state business.
- (b) Use of out-of-state travel must be related to the agency's scope of responsibilities.

- (c) Each state agency is charged with the responsibility for determining the necessity and justification for and method of travel.
- (d) Each state agency shall make every effort possible to minimize employee time spent on out-of-state travel.
- (2) Notwithstanding any other law, including but not limited to ORS 243.650 to 243.782, it is the policy of the state that travel awards earned while conducting state business shall be used to reduce the costs of state travel expenses except as otherwise required as a prerequisite to receipt of federal or other granted funds. The use of travel awards obtained while conducting state business for personal travel constitutes personal gain from state employment and violates ORS 244.040.
- (3) The Oregon Department of Administrative Services shall work with commercial airlines to make travel awards available to the state rather than individual employees.
- (4) Notwithstanding subsection (5) of this section, each state agency shall manage all travel awards earned by personnel employed by them who travel for the state. Agencies shall establish procedures in accordance with Oregon Department of Administrative Services rules to monitor the earning and use of awards by individual employees.
- (5) The Oregon Department of Administrative Services shall adopt by rule standards regulating out-of-state travel including but not limited to:
 - (6) Limiting the number of officers and employees who may attend the same meeting;
 - (7) Requiring state agencies to establish practices for travel that are consistent with the agency's resources;
 - (8) Requiring agencies to develop information sharing for reporting and other aspects that have benefits to more than one agency;
 - (9) Developing telecommunication resources to be used in lieu of travel;
 - (10) Requiring agency administrators or their designees, as designated in writing, to approve out-of-state travel;

(11) and

(12) Setting up procedures to audit agency use of travel and travel awards including appropriate sanctions for

(13) misuse.

(14) As used in this section:

(15) “Official state business” means activity conducted by any agency personnel that has been authorized by that agency in support of approved state programs.

(16) “Out-of-state travel” means all travel from a point of origin in Oregon to a point of destination in another state and return therefrom.

(17) “Travel award” means any object of value awarded by any business providing commercial transportation or accommodations to an individual or agency which can be used to reduce the cost of travel including, but not limited to, frequent flier miles, discounts or coupons. [Amended by 1993 c.750 §1]

(18)

(19) **292.240** [Repealed by 1953 c.623 §3]

(20)

(21) **292.250 Reimbursement for use of privately owned motor vehicle on official business.** (1) No person shall be reimbursed by the state for the use on official or state related business of a privately owned motor vehicle at a rate to exceed the rate established and regulated by the Oregon Department of Administrative Services. Reimbursement shall be paid only for distances actually traveled and trips made in the performance of official or state related duties.

(22) The rate prescribed in subsection (1) of this section shall be deemed to be in full compensation for all and every expense, charge or liability incurred through the use of the privately owned motor vehicle, including the cost of gasoline, oil, repair parts, depreciation, taxes, insurance and maintenance and upkeep of every kind and nature.

(23) No law enacted before August 2, 1951, allowing the recovery by any person of necessary and reasonable traveling expenses incurred in the performance of official duties shall be construed to authorize payment by the state for the use of a privately owned motor vehicle on a basis in excess of the rate provided in subsection (1) of this section. [Amended by 1965 c.8 §1; 1971 c.153 §2; 1971 c.244 §1; 1973 c.224 §1; 1974 c.10 §1; 1975 c.525 §1; 1979 c.179 §1]

(24)

(25) Proposed:

(26) **.124 Provisions for Elected Officials and Members of Boards and Commissions**

(27) Elected officials are encouraged to use state per diems for meals and lodging, but may opt to claim reimbursement for actual and necessary travel expenses incurred in the performance of official state duties. Except as otherwise provided by law, members of state boards and commissions (including those individuals employed in full-time public service) may receive reimbursement for actual and necessary travel expenses incurred in the performance of official state duties. Gratuities up to 15% of actual meal costs are permissible if reasonable and necessary for the conduct of state business and need to be documented on the receipt. This is in addition to any per diem compensation that may be provided by statute that is not intended as a travel reimbursement. This special provision applies to both instate and out-of-state travel.

(28)

(29) Now:

(30) **Provisions for Elected Officials and Members of Boards and Commissions**

(31) **.108** Elected officials are encouraged to use state per diems for meals and lodging, but may opt to claim reimbursement for actual and necessary travel expenses incurred in the performance of official state duties. Except as otherwise provided by law, members of state boards and

commissions (including those individuals employed in full-time public service) may receive reimbursement for actual and necessary travel expenses incurred in the performance of official state duties. Gratuities up to 15% of actual meal costs are permissible if reasonable and necessary for the conduct of state business and need to be documented on the receipt. This is in addition to any per diem compensation that may be provided by statute that is not intended as a travel reimbursement. This special provision applies to both in state and out-of-state travel and is in addition to all other applicable provisions of this policy.

State Board of Education

326.011 Policy. In establishing policy for the administration and operation of the public elementary and secondary

schools in the State of Oregon and in carrying out its duties as prescribed by law, the State Board of Education shall consider the goals of modern education, the requirements of a sound, comprehensive curriculum best suited to the needs of the students and the public and any other factors consistent with the maintenance of a modern and efficient elementary and secondary school system. [1965 c.100 §1; 1971 c.513 §8; 2013 c.747 §176]

326.020 [Amended by 1961 c.624 §2; 1963 c.544 §15; repealed by 1965 c.100 §456]

326.021 State Board of Education membership. (1) The State Board of Education shall consist of:

(a) The State Treasurer, or the designee of the State Treasurer;

(b) The Secretary of State, or the designee of the Secretary of State; and

(c) Seven members, appointed by the Governor for a term of four years beginning July 1 of the year of appointment, subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. A person appointed under this paragraph may not be appointed to serve consecutively more than two full terms as a board member.

(2) In making appointments under subsection (1) of this section, the Governor shall select from residents of Oregon one member from each congressional district and two members from the state at large. An appointed member may not be engaged in teaching or participate in the administration or operation of any school.

(3) The Governor may remove appointed members of the State Board of Education for cause at any time after notice and public hearing.

(4) The State Treasurer and the Secretary of State, or the designee of the State Treasurer or Secretary of State, are nonvoting, ex officio members of the board.

(5) The board shall coordinate and collaborate with the Chief Education Office as provided by section 1, chapter 519, Oregon Laws 2011. [1965 c.100 §3 (enacted in lieu of 326.060); 1969 c.695 §4; 1971 c.485 §1; 1985 c.565 §56;

1993 c.45 §2; 2009 c.446 §1; 2013 c.624 §§87,88; 2015 c.774 §12]

Note: The amendments to 326.021 by section 42, chapter 774, Oregon Laws 2015, become operative June 30,

2019. See section 72, chapter 774, Oregon Laws 2015, as amended by section 14, chapter 682, Oregon Laws 2015, and section 20, chapter 763, Oregon Laws 2015. The text that is operative on and after June 30, 2019, is set forth

for the user's convenience.

326.021. (1) The State Board of Education shall consist of:

(a) The State Treasurer, or the designee of the State Treasurer;

(b) The Secretary of State, or the designee of the Secretary of State; and

(c) Seven members, appointed by the Governor for a term of four years beginning July 1 of the year of appointment, subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. A person appointed under this paragraph may not be appointed to serve consecutively more than two full terms as a board member.

(2) In making appointments under subsection (1) of this section, the Governor shall select from residents of Oregon one member from each congressional district and two members from the state at large. An appointed member may not be engaged in teaching or participate in the administration or operation of any school.

(3) The Governor may remove appointed members of the State Board of Education for cause at any time after notice and public hearing.

(4) The State Treasurer and the Secretary of State, or the designee of the State Treasurer or Secretary of State, are nonvoting, ex officio members of the board.

326.030 [Amended by 1961 c.624 §3; renumbered 326.095]

326.031 Vacancies. Appointments made to fill vacancies of the State Board of Education occurring prior to

expiration of a term of an appointed member shall be for the remainder of the unexpired term. When a vacancy occurs in an appointment made from a congressional district, the successor shall be appointed from the congressional district for which the vacancy exists. [1965 c.100 §4; 1985 c.565 §57; 2009 c.446 §2]

326.040 [Amended by 1957 c.124 §1; repealed by 1965 c.100 §456]

326.041 Meetings; election and term of chairperson; compensation and expenses. (1) The State Board of

Education shall meet at least six times each year on dates determined by the board, and at such other times as may be designated by the chairperson agreeable to a majority of the board, or at the call of a majority of the board members.

(2) The board shall elect one of its members to serve as chairperson of the board for one year commencing July 1. In case the office of chairperson of the board is permanently vacated for any reason, the board may elect a new chairperson to serve until the June 30 next following.

(3) A member is entitled to compensation and expenses as provided in ORS 292.495. [1965 c.100 §5; 1967 c.507 §3; 1969 c.314 §21; 1971 c.656 §1; 1987 c.474 §1; 1993 c.15 §1; 1993 c.45 §3]

326.050 [Repealed by 1957 c.124 §3]

326.051 Board functions; rules. Subject to ORS 417.300 and 417.305:

(1) In addition to such other duties as are prescribed by law and pursuant to the requirement of ORS chapter 183, the State Board of Education shall:

(a) Establish state standards for public kindergartens and public elementary and secondary schools consistent with the policies stated in ORS 326.011.

(b) Adopt rules for the general governance of public kindergartens and public elementary and secondary schools.

(c) Prescribe required or minimum courses of study.

(d) Adopt rules regarding school and interscholastic activities.

(e) Adopt rules that provide that no public elementary or secondary school shall discriminate in determining participation in interscholastic activities. As used in this paragraph, "discrimination" has the meaning given that term in ORS 659.850.

(f) Adopt rules that will eliminate the use and purchase of elemental mercury, mercury compounds and mercury-added instructional materials by public elementary and secondary schools.

(2) The State Board of Education may:

(a) Consistent with the laws of this state, accept money or property not otherwise provided for under paragraph (b) of this subsection, which is donated for the use or benefit of the public kindergartens and public elementary and secondary schools and use such money or property for the purpose for which it was donated. Until it is used, the board shall deposit any money received under this paragraph in a special fund with the State Treasurer as provided in ORS 293.265 to 293.275.

(b) Apply for federal funds and accept and enter into any contracts or agreements on behalf of the state for the receipt of such funds from the federal government or its agencies for:

(A) Educational purposes, including but not limited to any funds available for the school lunch program;

(B) Career and technical education programs in public elementary and secondary schools; and

(C) Any grants available to the state or its political subdivisions for general federal aid for public kindergartens, public elementary schools and public secondary schools and their auxiliary services, improvement of teacher preparation, teacher salaries, construction of school buildings, administration of the Department of Education and any other educational activities under the jurisdiction of the State Board of Education.

(c) Adopt rules to administer the United States Department of Agriculture's National School Lunch Program and School Breakfast Program for public and private prekindergarten through grade 12 schools and residential child care facilities. [1965 c.100 §6; 1965 c.519 §14; 1967 c.67 §24; 1969 c.284 §1; 1971 c.513 §9; 1973 c.707 §1; 1975

c.459 §1; 1975 c.605 §17a; 1981 c.91 §1; 1987 c.404 §2; 1987 c.474 §2; 1989 c.834 §§12,13; 1993 c.45 §5,6; 2001 c.530 §1; 2003 c.14 §146; 2003 c.151 §1; 2009 c.94 §1; 2011 c.313 §17; 2013 c.747 §37]

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**STATE BOARD OF EDUCATION POLICY & PROCEDURE MANUAL:
Preview of Board Staff Proposed Changes
Board will consider these as action items at their September Meeting**

**Policy #100
First Adopted: pre-1997
Revised: 2007, 8/2009**

Board Policies & Procedures

A. Board Policies

The board shall operate under its policies as directed by law and as adopted by the board. These policies may be adopted, amended, or repealed by a majority of the board. No amendment shall be contrary to the laws of Oregon.

The policies may be amended at any meeting upon giving the members of the board ten (10) days advance notice of such proposed amendments, and upon an affirmative vote of a majority of the directors. Punctuation, grammar, and typographical errors may be corrected by board staff without a vote of the board.

B. Board Procedures

The board shall regularly review its operational procedures, generally at its annual retreat. At a minimum, the board's operational review shall include an annual work plan session.¹

END OF POLICY

¹ 1997 State Board of Education Policy Manual, Code BK

**STATE BOARD OF EDUCATION POLICY & PROCEDURE MANUAL:
Preview of Board Staff Proposed Changes
Board will consider these as action items at their September Meeting**

Page	Policy	Proposed Change	Explanation
6	#1	Added mission, vision and values to policy # 1	The Board recently adopted mission, vision, and values that are not in the policy manual.
7 & 8	#1	Added language on ex-officio and designees to Removal from Office	To clarify the role of ex-officio member or their designee, language has been added to various parts of the policy manual.
10	#2	Reworded who is responsible of approving ODE's budget.	There was confusion as to whether the agency needed approval of SBE to propose the budget to the Gov.
10	#2	Add requirement of quarterly budgetary & fiscal updates.	Better conforms to current practice and ensures continued quality of updates
11	#2	Changes effective practices from "will" to "may"	Better conforms to current practice and allows flexibility
17	#6	Added language on Executive Sessions	To clarify whether or not board advisors, ex-officio members or their designees can attend Executive Sessions.
26-32	#9	Added social media as part of the definition of public record	To provide policy clarification on social media usage.
36	#10	Changed notice specifics to the public notice rule number.	To allow for changes to the rule in the case of changing/increasing stakeholder recognition
33	#10	Added language on how to submit public comment	This guidance is used on the SBE page and has not been formally adopted by the Board.
41	#101	Adds "may form committees & workgroups" to the duties of the chair	To clarify and conform to current practice
42-43	#101	Added language on ex-officio member or designee	To clarify the role of the ex-officio member or their designee.
		Added language on role of SBE members, ex-officio, and advisors.	To clarify the role and responsibilities of board member, ex-officio and advisors.
46	#102	Adds language of "including but not limited to" the stakeholder list Adds the Nine Confederated Tribes of Oregon to the list of stakeholder	Better inclusion and representation amongst recognized stakeholders

**STATE BOARD OF EDUCATION POLICY & PROCEDURE MANUAL:
Preview of Board Staff Proposed Changes
Board will consider these as action items at their September Meeting**

47-51	#103	Added language to public comment section Added language to describe the contents of a docket Added language on Executive Session	To clarify the public comment process. To clarify who attends Executive Sessions.
52-53	#104	Added language to Board & Individual authority	Manual did not specify if ex-officio or advisors were included in Board authority.
54	#105	Added language to DOJ	To clarify if individual board members have access to DOJ.
56	#106	Added language about members reporting back on what they learn at conferences	To clarify expectations of members traveling for conferences
56-57	#107	Updates the list of Board Partnerships	Comply with current law & reflect current practice
58-59	#108	Added board material language Added language clarifying when notice will be sent out	Included more information on what is included in board materials.
60	#108	Deleted language	The Board takes public comments the month a rule is being considered for adoption. This sentence deleted said otherwise.
65-66	#310	Adds & Deletes language	Clarifies Board's role in the Department Budget Process
66-69	#302	Added ORS language to waivers	This language was added and taken from statute directly. It highlights the importance of equity issues in waivers.
69-75	#303	Adds language clarifying current process	Clarifies Charter School Sponsorship request process
76-82	#304	New policy : charter renewal request	Based on recommendations from report from Four Rivers/OSD investigation, new policies were created to base on statute to be

**STATE BOARD OF EDUCATION POLICY & PROCEDURE MANUAL:
 Preview of Board Staff Proposed Changes
 Board will consider these as action items at their September Meeting**

			adopted by SBE.
83-84	#305	New policy: Charter Contract Amendment Process	Based on recommendations from report from Four Rivers/OSD investigation, new policies were created to base on statute to be adopted by SBE.
84-85	#306	New Policy: Charter Termination Process	Based on recommendations from report from Four Rivers/OSD investigation, new policies were created to base on statute to be adopted by SBE.
86-88	#400	Removes Joint Boards of Education Bylaws	To comply with statute. Does not preclude meeting with HECC in other capacities.

Oregon State Board of Education

MEETING DATE

AGENDA ITEM:

<p>SUBJECT: Title of topic/OAR # and Title</p> <p>STAFF NAME & OFFICE:</p> <p>Summarize the issue. Three to five sentences that explains the subject and the need for board attention—what’s the problem/concern/issue?</p>	<p><input type="checkbox"/> Informational Presentation</p> <p><input type="checkbox"/> Written Report</p>
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BACKGROUND

1. History:
 - a. What prompted this update to the board?
2. Purpose
 - a. What function does this policy or update hold?
 - i. How long has this policy in place?
3. Does the board have any areas of discretion on this policy and/or update?
4. Stakeholder voice/input (individual and collective i.e., groups)
 - a. Who was involved in bringing this to the Board?
 - b. What did engagement in this process entail?
 - c. Who may be affected by this?
 - d. Whose voice is missing ~~potentially~~?
 - e. What more information does the Board need prior to moving forward?

SUMMARY OF PREVIOUS BOARD ACTION

1. Has this been before the board before? If so, what action did the board take?

POLICY ISSUE OR CONCERNS

These policy issues or concerns could be from the field, stakeholder groups, statements submitted during the comment period, or discussions among ODE staff. Consider the following questions:

1. Stakeholders
 - a. How have you intentionally involved stakeholders who are also members of communities affected by this rule?
 - b. Who are the historically underserved groups affected?
 - c. ~~If the rule change or policy decision has tribal implications and it has been deemed appropriate by the Department’s Tribal Liaison, the Deputy Superintendent, or State Board,~~ has there been consultation/engagement or collaboration with tribes in this rule change or policy decision?
 - d. How has the Oregon Department of Education modified or enhanced the rule change or policy decision to address the needs of historically underserved communities?

Oregon State Board of Education

MEETING DATE

AGENDA ITEM:

2. Negative/Positive Effects
 - a. What is the impact on the population most affected by this rule that the board should consider?
 - a-b. What possible opportunities, assets or access could this rule provide?
 - b-c. What is the impact on eliminating the opportunity or achievement gap?
 - c-d. Have all the potential unintended consequences been considered?
 - d-e. Does this rule advance the ESSA40/40/20 goals?
3. What are the barriers to more equitable outcomes, either:
 - a. State or federally mandated?
 - b. Political?
 - c. Emotional?
 - d. Financial?
 - e. Programmatic?
 - f. Language?
 - e-g. Geography?

EQUITY IMPACT ANALYSIS

The following questions are designed to examine how the proposed rule, policy or action systematically affect historically underserved students and/or communities.

1. ~~Will~~ How are historically underserved populations ~~be~~ impacted by this docket item?
 - a. ~~Demonstrate~~ If yes, describe how the rule changes, policy, or action could produce other unintended consequences not listed in the docket.
 - b. ~~If no~~, refer to *Policy Issue or Concerns* and identify the historically underserved populations affected. Conduct a reflection and examination, which will and should answer 1a.
2. Examine the potential impact of the rule changes, policy, or action on historically underserved populations in Oregon. Describe this ongoing and/or foreseeable impact, using as much detail as possible.
- ~~3.~~ 3. Explain how the rule change, policy or action works toward improving achievement, opportunities and a sense of worthiness for underserved students? Explain how the rule change, policy, or action works toward the elimination of either (one or both):
 - ~~a.~~ the achievement gap
 - ~~b.~~ the opportunity gap

FISCAL ANALYSIS

Are there any fiscal impacts that the Board should consider as part of this update or report? Does the proposed rule change impact other stakeholders?

ATTACHMENTS

Attachment 1:

Oregon State Board of Education

MEETING DATE

AGENDA ITEM:

<p>SUBJECT: Title of topic/OAR # and Title</p> <p>STAFF NAME & OFFICE:</p> <p>Summarize the issue. Three to five sentences that explains the subject and the need for board attention—what’s the problem/concern/issue? If this is a rule, what is the change that needs to be made?</p> <p><input type="checkbox"/> New Rule</p> <p><input type="checkbox"/> Amend Existing Rule</p> <p><input type="checkbox"/> Repeal Rule</p>	<p><input type="checkbox"/> First Reading</p> <p><input type="checkbox"/> Presentation</p> <p><input type="checkbox"/> No Presentation</p> <p><input type="checkbox"/> Action</p> <p><input type="checkbox"/> Temp Rule</p> <p><input type="checkbox"/> Presentation</p> <p><input type="checkbox"/> No Presentation</p>
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BACKGROUND

Include the following points for new OARs, OAR updates or changes.

1. History:
 - a. What prompted the rule (why do we have it?) State law? Federal law? Incident? Why are changes/amendments being proposed?
 - b. What is the current requirement in rule or statute?
 - b.c. Why is this rule being brought forward right now?
2. Purpose
 - a. What function does the current rule hold?
 - b. How long has the rule been in place?
3. Does the board have any areas of discretion or is this strictly mirroring statute?
 - a. If the board does have discretion, those areas should be called out here or in the next section.
4. Stakeholder voice/input (individual and collective i.e., groups)
 - a. Who was involved in bringing this to the Board?
 - b. What did engagement in this process entail?
 - c. Who may be affected by this?
 - d. Whose voice is missing *potentially*?
 - e. What additional information does the Board need prior to moving forward?

SUMMARY OF PREVIOUS BOARD ACTION

1. Has this been before the board before? If so, what action did the board take?

HAS THE RULE CHANGED SINCE LAST BOARD MEETING?

- N/A; first read—hasn’t been before board

Oregon State Board of Education

MEETING DATE

AGENDA ITEM:

- No; same as last month
 Yes – As follows:

POLICY ISSUE OR CONCERNS

These policy issues or concerns could be from the field, stakeholder groups, statements submitted during the comment period, or discussions among ODE staff. Consider the following questions:

1. Stakeholders
 - a. How have you intentionally involved stakeholders who are also members of communities affected by this rule?
 - b. Who are the historically underserved groups affected?
 - c. ~~If the rule change or policy decision has tribal implications and it has been deemed appropriate by the Department's Tribal Liaison, the Deputy Superintendent, or State Board,~~ has there been consultation/engagement or collaboration with tribes in this rule change or policy decision?
 - d. How has the Oregon Department of Education modified or enhanced the rule change or policy decision to address the needs of historically underserved communities?
2. Negative/Positive Effects
 - a. What is the impact on the population most affected by this rule that the board should consider?
 - ~~a.~~ b. What possible opportunities, assets or access could this rule provide?
 - ~~b.~~ c. What is the impact on eliminating the opportunity or achievement gap?
 - ~~c.~~ d. Have all the potential unintended consequences been considered?
 - ~~d.~~ e. Does this rule advance the [ESSA40/40/20](#) goals?
3. What are the barriers to more equitable outcomes, either:
 - a. State or federally mandated?
 - b. Political?
 - c. Emotional?
 - d. Financial?
 - e. Programmatic?
 - f. Language?
 - g. geography?
 - e. h. Size?

EQUITY IMPACT ANALYSIS

The following questions are designed to examine how the proposed rule, policy or action systematically affect historically underserved students and/or communities.

1. ~~Will~~ How are historically underserved populations ~~be~~ impacted by this docket item?
 - a. ~~If yes, describe~~ Demonstrate how the rule changes, policy, or action could produce other unintended consequences not listed in the docket.

Oregon State Board of Education

MEETING DATE

AGENDA ITEM:

- b. ~~If no,~~ refer to *Policy Issue or Concerns* and identify the historically underserved populations affected. Conduct a reflection and examination, which will and should answer 1a.
2. Examine the ~~potential~~ impact of the rule changes, policy, or action on historically underserved populations in Oregon. Describe this ongoing and/or foreseeable impact, using as much detail as possible.
3. Explain how the rule change, policy or action works toward improving achievement, opportunities and a sense of worthiness for underserved students? ~~Explain how the rule change, policy, or action works toward the elimination of either (one or both):~~
 - a. ~~the achievement gap~~
 - b. ~~the opportunity gap~~

FISCAL ANALYSIS

What is the fiscal impact of the proposed rule changes to the Department of Education, school districts, education service districts or schools? Use the following suggestions as a guide:

1. How does the proposed rule fit within the budget of the agency?
 - a. Which units/divisions/offices will be impacted and how?
2. How does the proposed rule change impact school districts and ESDs?
3. How does the proposed rule change impact schools and other educational institutions?
4. Does the proposed rule change impact other stakeholders?

EFFECT OF A "YES" OR "NO" VOTE

Explain the consequences of a Board approving or not approving the staff recommendation.

STAFF RECOMMENDATION

Approve Approve next month No recommendation at this time
Prompted by: State law changes Federal law changes other

ATTACHMENTS

Attachment 1:

Oregon State Board of Education

October 17, 2019

AGENDA ITEM: 3.E

<p>SUBJECT: Educator Advancement Council Permanent Rules STAFF NAME & OFFICE: Cheryl Myers, EAC Director of Operations & Engagement</p> <p>Summarize the issue. At the May 2019 SBE meeting, temporary rules were approved on behalf of the EAC and are scheduled to expire in November 2019. In consultation with ODE's Emily Nazarov, the EAC made adjustments to the temporary rules, and requested SBE undertake permanent rulemaking on their behalf; the SBE first reading occurred at the September 2019 meeting.</p> <p><input type="checkbox"/> New Rule <input checked="" type="checkbox"/> Amend Existing Rule <input type="checkbox"/> Repeal Rule</p>	<p><input type="checkbox"/> First Reading <input type="checkbox"/> Presentation <input type="checkbox"/> No Presentation <input checked="" type="checkbox"/> Action <input type="checkbox"/> Temp Rule <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> No Presentation</p>
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BACKGROUND

Include the following points for new OARs, OAR updates or changes.

1. History:
 - a. What prompted the rule (why do we have it?) State law? Federal law? Incident? Why are changes/amendments being proposed?
The Educator Advancement Council was formed as a result of SB 182 (2017) and charged with creating a system of "educator networks" in Oregon to ensure equitable access to the Educator Advancement Fund (formerly the Network for Quality Teaching and Learning). On July 1, 2019, the Oregon Department of Education has assume the primary role for supporting the Council as Administrative Agent, including distribution of the Educator Advancement Fund.

Through ODE's procurement process, ten Regional Educator Networks (REN) have been identified ensuring every area of the state has access to resources from the Educator Advancement Fund and Intent to Award grant agreements are being negotiated. Each REN will help facilitate content, process, fiscal, and infrastructure supports for eligible member organizations within their region.
 - b. What is the current requirement in rule or statute?
In consultation with Emily Nazarov of ODE, the EAC permanent rules have been slightly modified from the temporary rules appraoved in May 2019 by the SBE.
2. Purpose
 - a. What function does the current rule hold?
The temporary rules mirrored SB 182 and clarified numerous elements for the issuance of an RFA and seletion of Regional Educator Networks.
 - b. How long has the rule been in place?
The temporary rules were adopted by the SBE in May 2019.
3. Does the board have any areas of discretion or is this strictly mirroring statute? NA
4. Stakeholder voice/input (individual and collective i.e., groups)

Oregon State Board of Education

October 17, 2019

AGENDA ITEM: 3.E

- a. *All EAC meetings are held in accordance with public meeting rules and accessible by phone with all materials posted for the public and opportunities for testimony; additionally, the EAC has engaged in numerous platforms with opportunity for discussions about the EAC vision and implementation of educator networks:*
 - i. *EAC hosted RFI Webinar, last fall*
 - ii. *EAC hosted seven day-long Design Institutes throughout the state, 200+ participants*
 - iii. *EAC hosted RFA Webinar, June 2019*
- b. *Permanent rules will be shared with:*
 - a. *All individuals who participated in EAC hosted events and the EAC listserve of 2,000+,*
 - b. *The EAC staff will partner with ODE, TSPC, and Early Learning Division to forward permanent rules to superintendents, principals, licensed educators, early learning hubs, higher education partners, tribes, community-based organizations and entities who previously received Network funding and other stakeholder groups.*
 - c. *Additional stakeholder groups who will receive the temporary rules include: COSA, OEA, OSBA, Chalkboard, ECET, and other professional organizations.*
- c. *Who may be affected by this?*

The Educator Advancement Fund creates opportunities for eligible member organizations (school districts, state-sponsored charter schools, the Oregon School for the Deaf and YCEP/JDEP) and their partners to collaborate on systems thinking to improve processes and practices impacting the recruitment, preparation, novice educator support, ongoing culturally responsive professional learning, and career advancement for educators.

SUMMARY OF PREVIOUS BOARD ACTION

- 1. Has this been before the board before? If so, what action did the board take?
The Board received background information and an update on the EAC in March 2019.
If so, what action did the board take?
Permanent Rules first reading at September 2019 SBE meeting.

HAS THE RULE CHANGED SINCE LAST BOARD MEETING?

- N/A; first read—hasn't been before board
- No; same as last month
- Yes – As follows:

POLICY ISSUE OR CONCERNS

Oregon State Board of Education

October 17, 2019

AGENDA ITEM: 3.E

These policy issues or concerns could be from the field, stakeholder groups, statements submitted during the comment period, or discussions among ODE staff. Consider the following questions:

1. Stakeholders

- a. How have you intentionally involved stakeholders who are also members of communities affected by this rule?

In addition to the responses in Item 3a – e, the EAC has intentionally involved stakeholders who could be impacted by the change in funding by:

- i. Hosting listening sessions with educators of color to identify factors that influence retention and success for novice educators.*
- ii. Working closely with the Educator Equity Advisory Group to identify highly effective practices for closing the gap between the demographics of Oregon's K-12 student population and the educator workforce.*
- iii. Sharing findings from the TELL Survey on school practitioners' perceptions with educators via OEA, administrators attending COSA, and school board members via OSBA each year.*
- iv. Providing regular updates to the Oregon Association of Colleges of Teacher Education, the public deans, and TSPC on the work of the EAC.*
- v. Sharing updates with teachers via the Director's Advisory Council, ECET², and educators serving as mentors in the Oregon Mentor Project.*

- b. Who are the historically underserved groups affected?

- i. Smaller and more rural/remote districts have often been unable to apply for Network funds in past biennia. The EAC Fiscal Work Group has identified a more equitable funding formula providing base level funding for districts and creating a mechanism by which small and/or rural districts can form network partnerships with and across regions to work on common problems of practice.*
- ii. Oregon continues to experience a dearth of educators of color and linguistic diversity who mirror the demographics of our students. Students need to see more educators who look like them and experience more educators using culturally responsive curriculum and teaching practices. We have learned many districts have already begun considering how systems to recruit, prepare, hire, and retain educators of color can be strengthened and supported through the EAF.*

- c. If the rule change or policy decision has tribal implications and it has been deemed appropriate by the Department's Tribal Liaison, the Deputy Superintendent, or State Board, has there been engagement or collaboration with tribes in this rule change or policy decision?

Regular updates on the EAC work has been part of each regularly scheduled Government to Government Education Cluster meeting and additional meetings with education cluster leaders. Additionally, a federally-recognized tribal representative is an EAC Director and consistently participates in Council meetings and work groups.

Oregon State Board of Education

October 17, 2019

AGENDA ITEM: 3.E

Additionally, the Coordinating Body requirements also include representation from a federally-recognized tribal representative.

- d. How has the Oregon Department of Education modified or enhanced the rule change or policy decision to address the needs of historically underserved communities?
2. Negative/Positive Effects
 - a. What is the impact on the population most affected by this rule that the board should consider?
 - b. What is the impact on eliminating the opportunity or achievement gap?
The EAC has embedded the use of the Equity Lens throughout the Regional Educator Network process, including a focus on equity-driven decision-making in the REN selection and will hold them accountable for closing opportunity and achievement gaps.
 - c. Does this rule advance the 40/40/20 goals?
Investing in Oregon educators can have positive effects on student learning, student graduation, and successful transitions into postsecondary education and careers. For example, one of the allowable uses of the Educator Advancement Fund can include professional learning for high school teachers providing college level coursework for high school students.

EQUITY IMPACT ANALYSIS

The following questions are designed to examine how the proposed rule, policy or action systematically affect historically underserved students and/or communities.

1. Will historically underserved populations be impacted by this docket item?
 - a. If yes, describe how the rule changes, policy, or action could produce other unintended consequences not listed in the docket.
Previously, support funds were largely available through competitive grants; SB182 changes to the Educator Advancement Fund provide statewide access to all public educators. (We anticipate impacts will be very positive, provide statewide access with great attention to serving historically) underserved students and communities.
 - b. If no, refer to *Policy Issue or Concerns* and identify the historically underserved populations affected. Conduct a reflection and examination, which will and should answer 1a.
2. Examine the potential impact of the rule changes, policy, or action on historically underserved populations in Oregon. Describe this ongoing and/or foreseeable impact, using as much detail as possible.
See 1)a) response above
3. Explain how the rule change, policy, or action works toward the elimination of either (one or both):
 - a. the achievement gap
 - b. the opportunity gap
See 1)a) response above

Oregon State Board of Education

October 17, 2019

AGENDA ITEM: 3.E

FISCAL ANALYSIS

What is the fiscal impact of the proposed rule changes to the Department of Education, school districts, education service districts or schools? Use the following suggestions as a guide:

1. How does the proposed rule fit within the budget of the agency?
With the CEdO sunset on June 30, 2019, the Oregon Department of Education assumed the primary role for supporting the Council's distribution of the Educator Advancement Fund, approximately \$39.5 million. The ODE Leadership Team has been meeting regularly with the EAC staff to transition from competitive Network grants to the Educator Advancement Fund via Regional Educator Networks.
2. How does the proposed rule change impact school districts and ESDs?
The rules provide guidance and mitigate risk for the ODE by providing clarity to procurement processes for the Educator Advancement Fund. ODE's Chief Financial Officer served on the EAC Fiscal Work Group as they developed a funding formula calculated on each eligible member organization's three-year averages of:
 - *Licensed educators*
 - *Teachers and administrators new to their profession*
 - *Teacher retention rates, and*
 - *Diversity gaps between the racial demographics of the students and that of the district's teachers and administrators*
3. How does the proposed rule change impact schools and other educational institutions?
Eligible member organizations may use some of their EAF funds early on to engage educators and partners in examining current systems intended to support educators at various stages of their career. Gathering insights from teachers will be a powerful first step in viewing and then building systems from a user's perspective. The goal is to understand the root causes of why the system is working for some and failing others, in order to improve it. When the voices of students and their families are added to this collection of data, system improvements can consider a richer layer of experiences to drive improvements, including the perspectives of student and families. The resulting knowledge will result in a local plan with goals, appropriate success metrics and a design for using EAF resources to quantify potential solutions through improvement cycle processes.

EFFECT OF A "YES" OR "NO" VOTE

Explain the consequences of a Board approving or not approving the staff recommendation.

Delaying permanent rule adoption would impact the ability of RENs to fully engage educators/stakeholders in anticipated Year One activities.

STAFF RECOMMENDATION

Approve Approve next month No recommendation at this time

Oregon State Board of Education

October 17, 2019

AGENDA ITEM: 3.E

Prompted by: State law changes Federal law changes other

ATTACHMENTS

Attachment 1: EAC Permanent Rules

Created by EN 8-19-19; updated per EAC meeting 8.25.19

581-012-0001

Definitions

The following definitions apply to OAR 581-012-0001 to 581-012-0019

- (1) "Educator Advancement Fund" means the fund established by ORS 342.953.
- (2) "ESD" means education service district as defined in ORS 334.003.
- (3) "Nonprofit organization" means an education-focused organization that:
 - (a) Is established as a nonprofit organization under the laws of Oregon; and
 - (b) Qualifies as an exempt organization under section 501(c)(3) or a social welfare organization under 501(c)(4) of the Internal Revenue Code as defined in ORS 314.011.
- (4) "Oregon equity lens" means the equity lens as defined in OAR 581-018-0010.
- (5) "Postsecondary institution of education" means:
 - (a) A community college operated under ORS Chapter 341;
 - (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;
 - (c) Oregon Health and Science University; or
 - (d) An Oregon-based, accredited, not-for-profit institution of higher education.
- (6) "School district" means a common or union high school district.

(7) “Tribe” means any of the federally recognized Native American tribes of this state.

Statutory/Other Authority: ORS 342.940 & ORS 324.943

Statutes/Other Implemented: ORS 342.940 & ORS 324.943

History:

[ODE 19-2019, temporary adopt filed 05/20/2019, effective 05/20/2019 through 11/15/2019](#)

581-012-0003

Equity Lens

The Educator Advancement Council, the Oregon Department of Education, and the Regional Educator Networks will apply the Oregon equity lens in all work relating to the Educator Advancement Fund and the Regional Educator Networks.

Statutory/Other Authority: ORS 342.940 & ORS 324.943

Statutes/Other Implemented: ORS 342.940 & ORS 324.943

History:

[ODE 19-2019, temporary adopt filed 05/20/2019, effective 05/20/2019 through 11/15/2019](#)

581-012-0005

Educator Advancement Fund

The Educator Advancement Fund may be used for the following purposes:

- (1) Regional Educator Network capacity grants pursuant to OAR 581-012-0013;
- (2) Regional Educator Network formula funding pursuant to OAR 581-012-0015;
- (3) Other investments directed by the Oregon Legislature or the Educator Advancement Council pursuant to OAR 581-012-0017; and
- (4) Educator Advancement Council and ODE administrative costs.

Statutory/Other Authority: ORS 342.940 & ORS 324.943

Statutes/Other Implemented: ORS 342.940 & ORS 324.943

History:

[ODE 19-2019, temporary adopt filed 05/20/2019, effective 05/20/2019 through 11/15/2019](#)

581-012-0007

Regional Educator Networks

- (1) The Educator Advancement Council will develop Regional Educator Networks across the state for the purpose of facilitating the work of school districts in their respective regions as they improve systems designed to support educators.

(2) Regional Educator Networks must:

(a) Comply with all requirements of ORS 342.943;

(b) Establish a coordinating body for the regional educator network with membership based on the requirements in statute ORS 342.943(2)(f);

(c) Convene member organizations in their region. ~~Eligible member organizations are school districts, state-sponsored public charter schools, the Oregon School for the Deaf, and an education program under the Youth Corrections Education Program or the Juvenile Detention Education Program;~~

(d) Oversee and monitor Educator Advancement Fund resources allocated to the Regional Educator Network;

(e) Reflect and communicate the nature and intent of the Educator Advancement Fund funding;

(f) Model and reinforce authentic local stakeholder and educator engagement efforts;

(g) Demonstrate a commitment to equity-driven policies and practices including engagement of community stakeholder groups;

(h) Support the member organizations through phases 1-3 of a continuous improvement process as defined by the Regional Educator Network Request for [Proposals/Applications](#);

(i) Participate in ongoing Training and Technical Assistance as required by the Educator Advancement Council;

(j) Ensure the Regional Educator Network coordinator is communicating regularly with the Educator Advancement Council;

(k) Develop a local plan in accordance with OAR 581-012-0011;

(l) Host and promote Training and Technical Assistance opportunities offered by the Educator Advancement Council to support the work of governance groups and/or districts;

(m) Participate in best-practice sharing with other Regional Educator Networks, including Educator Advancement Council hosted statewide Regional Educator Network convenings; and

(n) Collaborate with other Regional Educator Networks to meet the identified needs of a district if a priority is not being addressed in their local Regional Educator Network.

(3) The Educator Advancement Council may revoke a Regional Educator Networks status for failure to [comply with the requirements of this rule or failure to](#) meet all requirements as

specified in the Regional Educator Network Request for [Proposals-Applications](#) issued by the [Oregon Department of Education on behalf of the](#) Educator Advancement Council.

(a) The Educator Advancement Council will provide written notice to a Regional Educator Network of any failure to comply with this rule or the Request for Application.

(b) Within 30 days of receiving written notice under subsection (3)(a) of this rule, the Regional Educator Network must submit proposed corrective action to the Educator Advancement Council.

(c) The Educator Advancement Council will approve the proposed corrective action submitted under subsection (3)(b) of this rule if the proposed corrective action has a substantial likelihood of bringing the Regional Educator Network back into compliance with this rule and the Request for Application.

(d) Within 60 days of approval of the proposed corrective action plan under subsection (3)(c) of this rule, the Regional Educator Network must complete the corrective action. If the Regional Educator Network does not complete the corrective action within the required time, the Educator Advancement Council will revoke the Regional Educator Network's status and immediately cease all funding to the Regional Educator Network. [If extenuating circumstances exist, the Regional Educator Network may request an extension of time to comply.](#)

(e) [Unless otherwise prohibited by statute, the Council may delegate these determinations to its Executive Director.](#)

Statutory/Other Authority: ORS 342.940 & ORS 324.943

Statutes/Other Implemented: ORS 342.940 & ORS 324.943

History:

[ODE 19-2019, temporary adopt filed 05/20/2019, effective 05/20/2019 through 11/15/2019](#)

581-012-0009

Criteria for Selecting Regional Educator Networks

(1) For each biennium, the Educator Advancement Council will establish a request for ~~application~~~~proposal~~ solicitation and approval process. The Council will notify eligible applicants of the ~~application~~~~proposal~~ process and the due dates, and make available necessary guidelines and application forms.

(2) All ~~proposals~~~~applications~~ must comply with the requirements of ORS 342.943 and rules adopted to implement those laws.

(3) The Educator Advancement Council will select Regional Educator Networks based on the evaluation of the grant applications and the geographic location of applicants to ensure all areas of the state are represented in a Regional Educator Network.

(4) The following entities are eligible to be a Regional Educator Network:

(a) School districts;

(b) ESDs;

(c) Non-profit organizations;

(d) Post-secondary institutions of education;

(e) Tribes; and

(f) A consortium of any combination thereof of entities described in this subsection.

(5) Regional Educator Networks must be or partner with an eligible fiscal agent. Eligible fiscal agents are school districts, ESDs, or post-secondary institutions of education.

581-012-0010

Member Organizations

(1) The following entities may join a Regional Network as an eligible member organization:

(a) School districts;

(b) State-sponsored public charter schools (per ORS 338-075);

(c) The Oregon School for the Deaf; and

(d) An education program under the Youth Corrections Education Program or the Juvenile Detention Education Program.

(2) Each Regional Educator Network shall notify and invite eligible member organizations located within the regional geographic boundary to participate in the Regional Educator Network. The notification required by this subsection shall be provided in writing and directed to the chief executive officer or superintendent of the eligible member organization within 30 days of the date the Regional Educator Network executes their grant agreement, receives notice of intent to award from with the Department of Education.

(3) An eligible member organization may choose to opt out of the Regional Educator Network by informing the Regional Educator Network in writing no later than 30 days after receiving notice of assignment under subsection (2) of this rule. Within 14 days of receiving such written notice, a Regional Educator Network Coordinator shall forward said notice to the Educator Advancement Council. If an eligible member organization fails to provide written notice within

30 days after receiving notice of assignment, the eligible member organization will become part of the Regional Educator Network. The Educator Advancement Council will direct the Oregon Department of Education to hold resources allocated on behalf of the opting out member organization in the Educator Advancement Fund. The Educator Advancement Council may then allocate those funds for any of the purposes identified in OAR 581-012-0005.

(4) Beginning on July 1, 2020, an eligible member organization currently participating in a Regional Educator Network may request reassignment to a different Regional Educator Network.

(a) The request for ~~reassignment~~ reassignment must be made to the Educator Advancement Council. The request must state the reason for seeking reassignment. Educator Advancement Council staff will conduct an analysis based on Educator Advancement Council established criteria and make a recommendation to the Educator Advancement Council.

(b) The Educator Advancement Council will assess the request for reassignment based on the following criteria:

(A) Whether a compelling rationale exists relative to alignment of system improvement efforts; and

(B) Whether there are documented requests to transfers from the member organizations constituency.

(C) Educator Advancement Council staff will verify the requested receiving Regional Educator Network is willing to accept the transferring eligible member organization.

(D) Upon approval by the Educator Advancement Council, the eligible member organization will be assigned to the new Regional Educator Network. The new Regional Educator Network shall receive 50% of the remaining funding associated with the transferring member organization for the current biennium. The remaining 50% of funding for the current biennium shall remain with the original Regional Educator Network.

Statutory/Other Authority: ORS 342.940 & ORS 342.943

Statutes/Other Implemented: ORS 342.940 & ORS 342.943

History:

ODE 19-2019, temporary adopt filed 05/20/2019, effective 05/20/2019 through 11/15/2019

581-012-0011

Regional Educator Network Regional Plan

(1) Regional Educator Networks must develop a regional plan. The regional plan must:

- (a) Comply with the requirements of ORS 342.943(3) and (4);
- (b) Incorporate the local plans developed by each of the Regional Educator Network's member organizations;
- (c) Describe any technical assistance to be provided by the Regional Educator Network;
- (d) Identify responsibilities of the required Regional Educator Network coordinator and the amount of assigned FTE;
- (e) Identify leveraged resources and additional partner contributions;
- (f) Articulate how funding will be used to support the work of the Regional Educator Network and local districts; and
- (g) Span a minimum of four years.

(2) Regional Educator Networks must submit the regional plan to the Educator Advancement Council. Each biennium the Educator Advancement Council will announce a deadline for submission of the regional plan.

(3) The Educator Advancement Council must review regional plans submitted by each Regional Educator Network to determine whether the plan should be approved. A regional plan will be approved if the plan meets the requirements of subsection (1) of this rule.

(4) Regional Educator Networks may amend an approved plan so long as the amendment is done in consultation with the Educator Advancement Council and the amended plan is approved by the Council as required under subsection (5) of this rule.

Statutory/Other Authority: ORS 342.940 & ORS 324.943

Statutes/Other Implemented: ORS 342.940 & ORS 324.943

History:

[ODE 19-2019, temporary adopt filed 05/20/2019, effective 05/20/2019 through 11/15/2019](#)

581-012-0013

Regional Education Network Capacity Grants

(1) For each biennium, the Educator Advancement Council will determine and communicate the total amount of funds to be made available to the Regional Educator Networks as capacity grants.

(2) The Oregon Department of Education will distribute funds from the Educator Advancement Fund to each Regional Educator Networks according to the direction of the Educator Advancement Council.

(3) Capacity grants can be used for the following purposes:

(a) Staffing, supplies, and travel costs for at least one dedicated Regional Educator Network staff person to work with people and schools in the region;

(b) Costs related to convening the coordinating body or district teams, including costs for travel, and actual costs of hiring substitutes for teachers; and

(c) Contracts for services to provide support with data collection, technical assistance, evaluation, and educator development content expertise.

(4) Regional Educator Networks must separately account for funding received under this section and must submit an expenditure report to the Educator Advancement Council upon request by the Council.

(5) If a Regional Educator Network does not spend all of the allotted funds in the given biennium, the Educator Advancement Council will direct the Department of Education to reallocate the funds to one or more of the other Regional Educator Networks or hold the funds in the Educator Advancement Fund to be distributed in the following biennium.

Statutory/Other Authority: ORS 342.940 & ORS 324.943

Statutes/Other Implemented: ORS 342.940 & ORS 324.943

History:

[ODE 19-2019, temporary adopt filed 05/20/2019, effective 05/20/2019 through 11/15/2019](#)

581-012-0015

Regional Educator Network Formula Funding

(1) For each biennium, the Educator Advancement Council will determine the total amount of funds to be made available to the Regional Educator Networks for use by the eligible members within the Regional Educator Network based on data provided by the Oregon Department of Education.

(2) The Oregon Department of Education will distribute funds from the Educator Advancement Fund to each Regional Educator Network according to the direction of the Educator Advancement Council.

(3) The Regional Educator Networks must expend funds received under this section in accordance with the Regional Educator Network Request for Proposals-Applications issued by the Educator Advancement Council and the regional plan developed and approved under 581-012-0011.

(4) Regional Educator Networks must separately account for funding received under this section and must submit an expenditure report to the Educator Advancement Council upon request by the Council.

(5) If a Regional Educator Network does not spend all of the allotted funds in the given biennium, the Educator Advancement Council will direct the Oregon Department of Education to hold the funds in the Educator Advancement Fund. The Educator Advancement Council may then allocate those funds for any of the purposes identified in OAR 581-012-0005.

Statutory/Other Authority: ORS 342.940 & ORS 324.943

Statutes/Other Implemented: ORS 342.940 & ORS 324.943

History:

[ODE 19-2019, temporary adopt filed 05/20/2019, effective 05/20/2019 through 11/15/2019](#)

581-012-0017

Other Investments

(1) The Educator Advancement Council may make other investments at the direction of the legislature or at the discretion of the Educator Advancement Council.

(2) The Oregon Department of Education will distribute funds according to the direction of the Educator Advancement Council.

Statutory/Other Authority: ORS 342.940 & ORS 324.943

Statutes/Other Implemented: ORS 342.940 & ORS 324.943

History:

[ODE 19-2019, temporary adopt filed 05/20/2019, effective 05/20/2019 through 11/15/2019](#)

581-012-0019

Reporting

Prior to the end of each fiscal year, a Regional Educator Network receiving funds from the Educator Advancement Fund must submit to the Educator Advancement Council:

(1) An expenditure report; and

(2) Audited financial statements.

(3) A report on progress toward goals and locally identified metrics in the regional plan and other metrics identified by the Educator Advancement Council.

Statutory/Other Authority: ORS 342.940 & ORS 324.943

Statutes/Other Implemented: ORS 342.940 & ORS 324.943

History:

[ODE 19-2019, temporary adopt filed 05/20/2019, effective 05/20/2019 through 11/15/2019](#)

Oregon State Board of Education

October 17, 2019

AGENDA ITEM: 4.A

<p>SUBJECT: Tribal Attendance Pilot Project/OAR # 581-017-0365 through 0375</p> <p>STAFF NAME & OFFICE: Ramona Halcomb, Office of Indian Education, Directors Office</p> <p>Update Name, remove any specific dollar amount or dates to the Tribal Attendance Pilot Project.</p> <p><input type="checkbox"/> New Rule <input checked="" type="checkbox"/> Amend Existing Rule <input type="checkbox"/> Repeal Rule</p>	<p><input checked="" type="checkbox"/> First Reading <input checked="" type="checkbox"/> Presentation <input type="checkbox"/> No Presentation</p> <p><input type="checkbox"/> Action <input type="checkbox"/> Temp Rule <input type="checkbox"/> Presentation <input type="checkbox"/> No Presentation</p>
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BACKGROUND

After the release of the *Condition of Education for Oregon's Tribal Students* in January 2013, a study from the Chalkboard Project, the Government to Government Education Cluster (comprised of representatives from each of the nine federally recognized tribes in Oregon), created a Policy Option Package (POP) to solicit state funding to reduce chronic absenteeism of American Indian/Alaska Native students. The study revealed nearly one-third (33%) of Native American students in all grades were chronically absent (missing 10% or more of school days). While All Other students were at less than one-fifth (19%) chronically absent.

In July of 2017 the Oregon legislature set aside funding to support the continuation of pilot projects to reduce chronic absenteeism among American Indian/Alaska Native students in nine preselected Oregon sites. This project is referred to as the Tribal Attendance Pilot Project (TAPP). Specifically, participating districts will receive up to funds to hire a community advocate position with deep local connections to create a school-wide initiative to reduce chronic absenteeism.

The Oregon Department of Education worked with the nine federally recognized tribal governments in Oregon to assist in the preselection of schools and create the framework for administering the Tribal Attendance Promising Practices funds to each district selected. In addition, ODE will collect best practice models created through these funds to make available to other districts.

The intent of the Tribal Attendance Promising Practices grant collaboration is to strengthen the links between the tribes and the schools that serve enrolled tribal members. However, because this is a school-wide initiative it will positively impact the attendance of every student attending those schools.

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The Oregon Department of Education(ODE) will to create a broad-based messaging campaign about the importance of school attendance, to provide technical support and training for the family advocate cohort, and monitor and report on the effectiveness of the grant. At the end of each academic year ODE will host a TAPP Symposium to highlight the sucesss and challenges of the nine Tribal Attendanced Promising Practices sites. This syposium is avaiable to both internal and external stakeholders interested in addressing Chronic Absenteesim.

The proposed revisions:

1. update the name of Tribal Attendance Pilot Project to Tribal Attendance Promising Practices; and
2. Simplify the rules by removing unecessary detail, thereby making the program easier to admister year after year without coming back to the board for amendments. The amendments do not make substantive changes to the grant program. Revision of OAR 581-017-0373 and OAR 531-017-0375 removes award amounts and specific dates.

ODE staff consulted with the following stakeholders through face-to-face meetings:

- The Government to Government Education Cluster;
- The AI/AN Advisory Committee; and
- Members of the former Tribal Attendance Pilot Project Advisory Committee.

An important voice that has been missing from the TAPP work is out of school youth.

This program will benefit students in the nine pre-selected districts. In addition, through the sharing of lessons learned through the TAPP program, students in other districts will benefit as well.

SUMMARY OF PREVIOUS BOARD ACTION

The TAPP rules were adopted by this board in 2016.

In 2018 the board revised 581-017-0373 to revise the grant award amount and 581-017-0375 to revise the reporting deadlines.

HAS THE RULE CHANGED SINCE LAST BOARD MEETING?

- N/A; first read—hasn't been before board
 No; same as last month
 Yes – As follows:

POLICY ISSUE OR CONCERNS

These policy issues or concerns could be from the field, stakeholder groups, statements submitted during the comment period, or discussions among ODE staff. Consider the following questions:

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1. Stakeholders

The office of Indian Education has solicited and listened to the nine federally recognized tribes in Oregon's Education Cluster Representatives, the AI/AN Advisory Committee, family advocates, principals and superintendents of selected districts, students and families, and colleagues. These are the stakeholders and communities affected by this rule. This addresses the American Indian/Alaska Native underserved group.

2. Negative/Positive Effects

- a. What is the impact on the population most affected by this rule that the board should consider? Since The Tribal Attendance Pilot Projects inception the chronic absenteeism rate among American Indian/Alaska Native students have decreased while all other student populations have increased their chronic absenteeism rate.
- b. What is the impact on eliminating the opportunity or achievement gap? By increasing attendance, family engagement the opportunity gap will decrease.
- c. Have all the potential unintended consequences been considered? Yes.
- d. Does this rule advance the 40/40/20 goals? Yes.

3. What are the barriers to more equitable outcomes, either:

- a. State or federally mandated? Looking at the policies each district has on the definition of "absence." For example, sport teams are not considered absent when they travel to compete. Most American Indian/Alaska Native students are penalized for attending important cultural activities. For example, "Treaty Days" "First Food Ceremonies" and other important cultural significant activities.
- b. Political? Government-to-Government status should be considered when discussing American Indian/Alaska Native students.
- c. Emotional? Yes, Cultural identity may positively affect student performance.
- d. Financial? No.
- e. Programmatic? Possible adjustment in having common terminology for absenteeism.

EQUITY IMPACT ANALYSIS

The following questions are designed to examine how the proposed rule, policy or action systematically affect historically underserved students and/or communities.

This docket item can positively impact the American Indian / Alaska Native chronic absenteeism rate. As well as the schools where the Tribal Attendance Promising Practices grant operates and the districts that request Promising Practices or attend the Tribal Attendance Promising Practice Symposium.

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FISCAL ANALYSIS

What is the fiscal impact of the proposed rule changes to the Department of Education, school districts, education service districts or schools? Use the following suggestions as a guide:

1. How does the proposed rule fit within the budget of the agency? Yes
 - a. Which units/divisions/offices will be impacted and how? Office of Indian Education will administer the grant.
2. How does the proposed rule change impact school districts and ESDs? By revising the current rules, ODE will be able to release grant funds.
3. How does the proposed rule change impact schools and other educational institutions? Positively affects the chronic absenteeism rate.
4. Does the proposed rule change impact other stakeholders? Because the Tribal Attendance Promising Practice grant efforts are school-wide, all students may benefit from the strategies utilized.

EFFECT OF A "YES" OR "NO" VOTE

Explain the consequences of a Board approving or not approving the staff recommendation. ODE will be prevented from releasing current grant funds.

STAFF RECOMMENDATION

Approve Approve next month No recommendation at this time
Prompted by: State law changes Federal law changes other

ATTACHMENTS

Attachment 1:

CREATED BY EN 10-3-19

581-017-0365

Definitions [for Tribal Attendance Promising Practices](#)

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.

Statutory/Other Authority: ORS 342.950

Statutes/Other Implemented: ORS 342.950

History:

ODE 26-2016, f. & cert. ef. 4-7-16

581-017-0367

Establishment [for Tribal Attendance Promising Practices](#)

(1) The Tribal Attendance [Pilot Project Promising Practices grant](#) 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 preselected 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.

Statutory/Other Authority: ORS 342.950

Statutes/Other Implemented: ORS 342.950

History:

ODE 26-2016, f. & cert. ef. 4-7-16

581-017-0369

Eligibility [for Tribal Attendance Promising Practices](#)

(1) To be eligible to receive ~~the~~ Tribal Attendance [Promising Practices 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.

Statutory/Other Authority: ORS 342.950

Statutes/Other Implemented: ORS 342.950

History:

ODE 26-2016, f. & cert. ef. 4-7-16

581-017-0371

Criteria [for Tribal Attendance Promising Practices](#)

(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 Promising Practices grant program](#). 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.

Statutory/Other Authority: ORS 342.950

Statutes/Other Implemented: ORS 342.950

History:

ODE 26-2016, f. & cert. ef. 4-7-16

581-017-0373

Funding for Tribal Attendance Promising Practices

(1) The Department will award non-competitive grants to Tribal Attendance Promising Practices sites. The sites will be selected by one of the nine federally recognized tribes in Oregon. If a Tribal Attendance Promising Practices site either does not participate in the grant or does not meet the requirements of the grant, monies designated for that Tribal Attendance Promising Practices site may be distributed equally among the other sites even if the sites have already received the maximum award under this subsection. ODE will retain funds to create a broad-based messaging campaign and provide technical support and training for family advocates grants of up to \$155,000 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.

Statutory/Other Authority: ORS 342.950

Statutes/Other Implemented: ORS 342.950

History:

ODE 15-2018, amend filed 05/29/2018, effective 05/30/2018

ODE 26-2016, f. & cert. ef. 4-7-16

581-017-0375

Reporting [for Tribal Attendance Promising Practices](#)

(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 an initial report, ~~(April 30, 2018)~~, an interim report, ~~(January 15, 2019)~~ and a Final Review report ~~(July 31, 2019)~~ that includes a detailed narrative prior to receiving the final funds.

[\(3\) Grant recipients will participate in symposiums and share best practices as requested by the Oregon Department of Education no more than two \(2\) times during the grant cycle.](#)

Statutory/Other Authority: ORS 342.950

Statutes/Other Implemented: ORS 342.950

History:

ODE 15-2018, amend filed 05/29/2018, effective 05/30/2018

ODE 26-2016, f. & cert. ef. 4-7-16

Oregon State Board of Education

October 17, 2019

AGENDA ITEM: 4.B

<p>SUBJECT: E-Rate Matching Program/ OAR 581-028-0005; 0010; 0015 STAFF NAME & OFFICE: Rick Crager & Michael Elliott / Office of School Facilities</p> <p>In 2019, the legislature passed HB 2173 to allow more education entities to access the state matching funds. ODE needs to revise the rules that administer the Oregon Connecting Schools Fund program so that not only school districts, but also Education Service Districts (ESDs), charter schools, or a consortium of any of these three entities can qualify for the matching federal funds to build broadband internet infrastructure. This revision also includes updating the priority list calculations for the other entities.</p> <p><input type="checkbox"/> New Rule <input checked="" type="checkbox"/> Amend Existing Rule <input type="checkbox"/> Repeal Rule</p>	<p><input checked="" type="checkbox"/> First Reading <input checked="" type="checkbox"/> Presentation <input type="checkbox"/> No Presentation</p> <p><input type="checkbox"/> Action <input type="checkbox"/> Temp Rule <input type="checkbox"/> Presentation <input type="checkbox"/> No Presentation</p>
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BACKGROUND

The federal government, through the E-Rate Program, has offered additional funds to districts to help them build networks to access high-speed internet. However, many districts in Oregon still have low connection speeds and are unable to close the digital divide. Recently the federal government increased the amount they would pay for broadband construction by 10%. However, the state must match dollar for dollar to get these additional funds. In 2018, the Oregon Legislature created the Connecting Oregon Schools Fund in HB 4023 to provide the necessary matching funds. For districts, this was exciting news as it allowed districts to receive enough funding to cover all project costs enabling them to build fiber optic networks, or other networks giving them access to high-speed internet. In particular, this is a benefit to many rural areas of the state given that many of these districts have high poverty levels and cannot afford to build without these additional funds.

Unfortunately, HB 4023 only applied to school districts which are clearly defined in statute. This meant that ESDs, charter schools, or a consortium of these three organizations would not be eligible for the state match. However, in contrast, all three of these groups are eligible for matching funds under the federal program. Especially in the rural areas of the state, ESDs frequently provide the internet service to districts in the area. Because ESDs, charter schools, and consortia assist the State of Oregon in closing the digital divide, it is of utmost importance that these other entities are enabled to qualify for the state match in funding.

In 2019, Oregon Legislature passed HB 2173. As part of the bill, language regarding the types of organizations that now qualify for the state match under the Connection Oregon Schools Fund has expanded to include all four of the types of organizations which are school districts, ESDs, charter schools, and consortia of these. Because of this statutory change the following changes to the rules need to happen:

- Broaden the type of organizations that can participate
- Change the formula to accommodate these organizations

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AGENDA ITEM: 4.B

- Address how the program will operate if funds are not available

The rules currently in place only reference school districts and charter schools. This includes the rules that described the priority list formula and how it is calculated. As a result of the passage of HB 2173, the rules need to align with both updated state legislation and the federal E-Rate Program. Additionally, the rules needed to be changed to update the formula to ensure an apples to apples comparison between the different types of groups. The proposed rules reflect those changes.

The proposed rule change also takes into account that if the legislature does not provide funds for the Connecting Oregon Schools Fund in any biennium, then the application process will be put on hold until funds become available. For the 2019-21 biennium, the legislature did not provide funds for the Connecting Oregon Schools Fund, hence the rule changes account for this situation.

The changes were reviewed by ODE stakeholders and discussed at a quarterly meeting of Chief Information Officers for districts across the state. Opportunities for comment were provided and rules were modified to reflect those comments. The current proposed changes are the result of this outreach and work.

The formula for prioritizing funding under the Connection Oregon Schools Fund was updated to include the entities now considered eligible to apply to the program under HB 2173. ODE will use the same data elements as described in the initial docket that was adopted by the State Board in 2018 that prioritize applicants based on greatest need. The rule change applies these data elements so that all entities receive the same comparable score. So a district's score is comparable to a charter school's score which is comparable to a consortium's score or an ESD's score:

- Free and Reduced Lunch (FRL %)
- Number of Schools
- Small School Correction from the State School fund
- Type of Internet Connection
- Download Speed
- District Average Daily Resident Membership (ADMr)

SUMMARY OF PREVIOUS BOARD ACTION

None.

HAS THE RULE CHANGED SINCE LAST BOARD MEETING?

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- N/A; first read—hasn't been before board
- No; same as last month
- Yes – As follows:

POLICY ISSUE OR CONCERNS

What is not addressed by this program, and indeed cannot be addressed by this program, is personal internet connections of students. This program helps schools and school districts improve the internet connection for all of their students while those students are in school. However, it does not have immediate ability to provide internet connections to student's homes. This means that students who do not have internet in their home will continue to not have internet in their home.

While this program cannot address that issue, it does work to ensure that more students have access to the internet while in school. This will help more students continue to access digital content and learning opportunities. It will be up to the local schools and districts to ensure that their curriculum addresses digital divides in the home and not leave any student behind as the school gains additional internet capacity.

This program helps prioritize the highest need districts. This priority is needed because it is anticipated that funding will always be less than the district need. The need to prioritize, however, could result in a district or school that has a bad internet connection not receiving funding because other districts rank higher. This could also be true for those districts that may have one or two schools with bad connections even though the rest of the district is in a large urban area. However, the goal is that the priority list will be based on an individual school and this problem could resolve itself.

EQUITY IMPACT ANALYSIS

This program has the opportunity to decrease the opportunity gap for our students that attend school in rural and poor areas with bad internet connections. Currently those students do not have the ability, or limited ability, to access the full range of digital content available on the internet because of poor and slow connections. This could mean less opportunity for specialized classes or other learning opportunities. By being able to use some state funds combined with a substantial contribution from federal funds, the state has the opportunity to close that opportunity gap at school for those students.

Additionally this program has the opportunity to shine a light on the potential for high-speed internet across all of the state. As students and families see the value of strong internet connections, they may create more demand for those connections. That could help encourage local internet companies and others to increase supply of high-speed internet to businesses and families in those underserved areas. This could help eliminate the opportunity gap that some students face because of a lack of access to high-speed internet at home.

Both ESDs and charter schools assist the State of Oregon in achieving Oregon's education goals by providing equitable educational opportunities for all of Oregon's public school students. With the

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proposed rule change, these other entities will be enabled to qualify for the state match in funding from the Connection Oregon Schools Fund.

FISCAL ANALYSIS

There will be minimal fiscal impact to the Department. The Office of School Facilities within the Office of Finance and Information Technology would be responsible for administering the grant program. The 2019 legislative session did not appropriated any money for the Connecting Oregon Schools Fund.

EFFECT OF A "YES" OR "NO" VOTE

If the Board approves this recommendation, then the department will be aligned with the changes to state statute. If the Board rejects this recommendation, then the Department will need to craft a new proposal that will effectively implement HB 2173.

STAFF RECOMMENDATION

Approve Approve next month No recommendation at this time
Prompted by: State law changes Federal law changes other

ATTACHMENTS

Attachment 1: OAR 581-028-0005, -0010, -0015

Division 28

CONNECTING OREGON SCHOOLS

[581-028-0005](#)

Definitions

The following definitions and abbreviations apply to these rules:

(1) "Average Daily Membership" or "ADM" means the average daily membership as calculated under OAR 581-023-0006.

~~(42)~~ "Cable Connection" means an internet connection that uses fiber optic technology, copper cable technology, or twisted wire technology.

~~(23)~~ "Charter School" means a public charter school as defined and organized under ORS chapter 338.

~~(34)~~ "Connecting Oregon Schools Fund" means the fund established by ~~HB 4023 (2018)~~ Oregon Laws Chapter 51 Section 3 (2018).

~~(45)~~ "Consortium" or "Consortia" means a group of Districts, Charter Schools, or ESDs, that are applying as one entity to the Connecting Oregon Schools Fund.

~~(6)~~ "Department" means the Oregon Department of Education.

~~(57)~~ "District" or "Districts" means school districts, as defined in ORS 328.001(3), that are eligible to apply for a State Matching Grant.

~~(6)~~ "District Average Daily Membership" or "District ADM" means the average daily membership of the school district as calculated under OAR 581-023-0006.

~~(78)~~ "DSL" means an internet connection that uses Digital Subscriber Line technology.

~~(89)~~ "Education Service District" or "ESD" means an Education Service District as defined and organized under ORS chapter 334.

(10) "Free and Reduced Lunch Percentage" means the number of students that receive benefits through the free and reduced lunch program divided by number of students in the District as provided by the Oregon Department of Education's Child Nutrition Services.

~~(9)~~ "Grant Cycle" means the complete cycle of application, award, disbursement, and closing of a specific grant under these rules

~~(4011)~~ “Mbps” means Megabits per second.

~~(4112)~~ “Number of Schools” means the number of schools in a given ~~D~~istrict as reported by the data collections within the Oregon Department of Education.

(13) “Organization” or “Organizations” means a District, ESD, Charter School, or Consortia that is eligible to apply for a grant from the Connecting Oregon Schools Fund.

~~(4214)~~ “Priority Calculation” means the calculations undertaken by the Department according to these rules to rank each application in priority order to receive matching funds from the Connecting Oregon Schools Fund.

~~(4315)~~ “Remote Small Elementary School” means any school that qualifies for the ~~R~~emote Small Elementary School Correction as defined in ORS 327.077(1)-(2).

~~(4416)~~ “Satellite Connection” means a data connection to the internet that uses satellite technology or other extraterrestrial technology to connect to the internet.

Statutory/Other Authority: Oregon Laws 2018 (HB 4023), Chapter 51 & Section 3

Statutes/Other Implemented: Oregon Laws 2018 (HB 4023), Chapter 51 & Section 3

History:

[ODE 33-2018, adopt filed 10/19/2018, effective 10/19/2018](#)

[581-028-0010](#)

Connecting Oregon Schools Fund Applications

(1) The Department shall post on its website the amount of funds in the Connecting Oregon Schools ~~S~~ Fund available for each year of the biennium.

(2) The Department shall update the information each biennium after the amount of funds available in the Connecting Oregon Schools Fund is determined.

(3) If the legislature does not provide funds for the Connecting Oregon Schools Fund in any biennium, then the application process will be put on hold until funds become available.

~~(43)~~ Each year, the Department shall establish the period when they will accept applications for the Connecting Oregon Schools Fund matching grants for that year.

~~(54)~~ The application periods shall align with any federal application period ~~for D~~istricts ~~for~~ Organizations to receive federal ~~mon~~ey monies for the purpose of providing broadband access to eligible schools in this state.

(65) ~~Districts and Charter Schools~~Organizations shall electronically submit applications to the Department within the required timelines and on forms developed by the Department.

(76) The Department may give Organizations ~~Districts and Charter Schools~~ that submit applications that do not meet requirements time to cure defects.

(87) The Department's decision to accept or reject an application for failure to meet all requirements shall be final.

(98) If there are funds available, ~~the~~ Department shall notify Organizations ~~Districts and Charter Schools~~ of the results of their application in time for the Organizations ~~Districts or Charter Schools~~ to include the results with any federal applications they need to submit. The Department shall provide any documentation required by the federal application.

Statutory/Other Authority: Oregon Laws 2018 (HB 4023), Chapter 51 & Section 3

Statutes/Other Implemented: Oregon Laws 2018 (HB 4023), Chapter 51 & Section 3

History:

[ODE 33-2018, adopt filed 10/19/2018, effective 10/19/2018](#)

[581-028-0015](#)

Connecting Oregon Schools Fund Priority List Calculations

(1) The Department shall rank all applications received according to the Priority Calculations.

(2) The Priority Calculations shall be based on ~~a District's an Organization's~~ Free and Reduced Lunch Percentage, the Number of Schools in the ~~District~~Organization, ~~the District's~~the presence of -Remote Small Elementary Schools, the ~~District's~~Organization's current type of internet connection, and the ~~district's~~Organization's download speed.

(3) The Priority Calculations shall be as follows:

(a) District Calculation:

(A) The District's Free and Reduced Lunch Percentage shall be multiplied by 100 to create the Base Rate. If a ~~district~~District does not have a Free and Reduced Lunch Percentage then the District shall be assigned a percentage as follows:

(A) If the District has a Remote Small Elementary School, then 90; or

(ii) If the District does not have a Remote Small Elementary School, then 50.

~~(Bb)~~ The Number of Schools in the District shall be subtracted from the Base Rate to create the School Rate.

~~(cC) The School Rate shall be adjusted by the presence of a Remote Small Elementary School to obtain the Revised School Rate as follows:~~

~~(i) If a District has a Remote Small Elementary School, then the School Rate will shall be increased by 10 if a District has a Remote Small Elementary School; or~~

~~(ii) No change if for the Revised School Rate. If a District does not have a Remote Small Elementary School, the Revised School Rate shall not be adjusted.~~

~~(dD)~~ The Revised School Rate ~~will~~ shall be adjusted by internet connection type and internet download speed to obtain the Final Priority Rank as follows:

~~(A)~~ Internet connection type at the location of the proposed construction project:

~~(i)~~ Increased by 5 for an internet connection type that uses DSL or Satellite Connection;

~~(ii)~~ No change for an internet connection type that uses other internet connections that are not otherwise defined; or

~~(iii)~~ Decreased by 5 for an internet connection type that uses Cable Connection.

~~(B)~~ Internet download speed at the location of the proposed construction project:

~~(i)~~ Increased by 5 for an internet download speed less than or equal to 25 Mbps;

~~(ii)~~ No change for an internet download speed greater than 25 Mbps and less than or equal to 100 Mbps; or

~~(iii)~~ Decreased by 5 for an internet download speed greater than 100 Mbps.

~~(4) If Districts tie in a given application period, then the Districts will be ranked according to their District ADMr with the smallest district receiving the highest priority.~~ (b) Charter School Calculation:

(A) The Free and Reduced Lunch Percentage of the District where the Charter School is located or headquartered shall be multiplied by 100 to create the Base Rate. If a District does not have a Free and Reduced Lunch Percentage then the Charter School shall be assigned a percentage as follows:

(i) If the District where the Charter School is located or headquartered has a Remote Small Elementary School, then 90; or

(ii) If the District where the Charter School is located or headquartered does not have a Remote Small Elementary School, then 50.

(B) The Number of Schools in the District where the Charter School is located or headquartered shall be subtracted from the Base Rate to create the School Rate.

(C) The School Rate shall be adjusted by the presence of a Remote Small Elementary School to obtain the Revised School Rate as follows:

(i) Increased by 10 if a Charter School is a Remote Small Elementary School; or

(ii) No change if a Charter School is not a Remote Small Elementary School.~~(C) If a Charter School is a Remote Small Elementary School, then the School Rate will be increased by 10 for the Revised School Rate. If a Charter School is not a Remote Small Elementary School, the Revised School Rate shall not be adjusted.~~

(D) The Revised School Rate will be adjusted by internet connection type and internet download speed to obtain the Final Priority Rank as follows:

(i) Internet connection type of the Charter School:

(I) Increased by 5 for an internet connection type that uses DSL or Satellite Connection;

(II) No change for an internet connection type that uses other internet connections that are not otherwise defined; or

(III) Decreased by 5 for an internet connection type that uses Cable Connection.

(ii) Internet download speed of the Charter School:

(I) -Increased by 5 for an internet download speed less than or equal to 25 Mbps;

(II) No change for an internet download speed greater than 25 Mbps and less than or equal to 100 Mbps; or

(III) Decreased by 5 for an internet download speed greater than 100 Mbps.

(c) ESD Calculation:

(A) The Free and Reduced Lunch Percentage of the ESD shall be multiplied by 100 to create the Base Rate. If an ESD does not have a Free and Reduced Lunch Percentage, then the ESD shall use the average Free and Reduced Lunch Percentage of all of the ESD's component Districts.

(B) The Number of Schools for the component Districts of an ESD shall be averaged and subtracted from the Base Rate to create the School Rate.

(C) The School Rate shall be adjusted by the presence of a Remote Small Elementary School to obtain the Revised School Rate as follows:

(i) Increased by 10 if more than half of the component Districts of an ESD have a Remote Small Elementary School; or

(ii) No change if less than half of the component Districts of an ESD have a Remote Small Elementary School.

~~(C) If more than half of the component Districts of an ESD have a Remote Small Elementary School, then the Base Rate shall be increased by 10. If less than half of the component Districts have a Remote Small Elementary School, then the Revised School Rate shall not be adjusted.~~

(D) The Revised School Rate will be adjusted by internet connection type and internet download speed to obtain the Final Priority Rank as follows:

(i) Internet connection type:

(I) Increased by 5 if the majority of component Districts of an ESD have ~~for~~ an internet connection type that uses DSL or Satellite Connection;

(II) No change if the majority of component Districts- of an ESD have an internet connection type that uses other internet connections that are not otherwise defined; or

(III) Decreased by 5 if a majority of component Districts of an ESD have an internet connection type that uses Cable Connection.

(ii) Internet download speed:

(I) Increased by 5 if the component Districts of an ESD have an average internet download speed less than or equal to 25 Mbps; ~~Increased by 5 if the average of the ESDs component Districts have an internet download speed less than or equal to 25 Mbps;~~

(II) No change if the component Districts of an ESD have an average ~~majority of component Districts have an~~ internet download speed greater than 25 Mbps and less than or equal to 100 Mbps; or

(III) Decreased by 5 if the component Districts of an ESD have an average ~~a majority of component Districts have an~~ internet download speed greater than 100 Mbps.

(d) Consortium Calculation:

(A) The Free and Reduced Lunch Percentages of the members of the Consortia Consortium shall be averaged and multiplied by 100 to create the Base Rate. If a member of the Consortia Consortium does not have a Free and Reduced Lunch Percentage, that member will have a Free and Reduced Lunch Percentage assigned as in OAR 581-028-0015(3)(a)(A) for Districts OAR 581-028-0015(3)(b)(A) for charter schools, or OAR 581-028-0015(3)(c)(A) for ESDs.

(B) The Number of Schools for the members of the Consortia Consortium shall be averaged and subtracted from the Base Rate to create the School Rate.

(C) The School Rate shall be adjusted by the presence of a Remote Small Elementary School to obtain the Revised School Rate as follows:

(i) Increased by 10 if more than half of the members of the Consortium have a Remote Small Elementary School; or

(ii) No change if less than half of the members of the Consortium have a Remote Small

Elementary School.~~(C) If more than half of the members of the Consortia have a Remote Small Elementary School, then the Base Rate shall be increased by 10. If less than half of the component Districts have a Remote Small Elementary School, then the Revised School Rate shall not be adjusted.~~

(D) The Revised School Rate will be adjusted by internet connection type and internet download speed to obtain the Final Priority Rank as follows:

(i) Internet connection type:

(I) Increased by 5 if the majority of members of the Consortia Consortium have for an internet connection type that uses DSL or Satellite Connection;

(II) No change if the majority of members of the Consortia Consortium have an internet connection type that uses other internet connections that are not otherwise defined; or

(III) Decreased by 5 if a majority of members of the Consortia Consortium have an internet connection type that uses Cable Connection.

(ii) Internet download speed:

(I)- Increased by 5 if the members of the Consortia Consortium have an average internet download speed less than or equal to 25 Mbps;

(II) No change if the members of the Consortia Consortium have an average internet download speed greater than 25 Mbps and less than or equal to 100 Mbps; or

(III) Decreased by 5 if the members of the Consortia Consortium have an average internet download speed greater than 100 Mbps.

(4)(a) If Organizations have the same Final Priority Rank, then the Organization with the smallest ADMr shall receive a higher priority rank.

(b) ADMr shall be calculated as follows:

(A) Districts shall use their ADMr;

(B) Charter Schools shall use their ADMr;

(C) ESDs shall use the average ADMr of their component Districts;

(D) Consortia shall use the average ADMr of their members.

(5) ~~Districts~~ Organizations will be fully funded according to their Priority Calculation ranking. If there are not enough funds to provide a full match to a given Organization ~~district~~, the ~~district~~ Department shall provide a partial match to that Organization. The Organization shall have the option of rejecting the partial funding and applying the next year for a full match.

~~(6) Any Charter School that submits an application will have the same rank as calculated for the District in which the Charter School is located.~~

~~(7) For school specific information, the Charter School will use its school information.~~

~~(8) A Charter School that submits an application will need to ensure that all District information is provided in the application or the application will be considered incomplete.~~

~~(9)~~ Districts and Charter Schools Organizations that do not receive any funds from the Connecting Oregon Schools Fund, may reapply at the next application period.

~~(10)~~ Districts and Charter Schools Organizations that receive a complete match funding from the Connecting Oregon Schools Fund, ~~may not reapply to this program for five years~~ may reapply for a different project but will be considered after all new applicants have been funded.

~~(11) The Priority Calculations will apply to Grant Cycles that begin after September 2018.~~

Statutory/Other Authority: Oregon Laws 2018 (HB 4023), Chapter 51 & Section 3

Statutes/Other Implemented: Oregon Laws 2018 (HB 4023), Chapter 51 & Section 3

History:

[ODE 33-2018, adopt filed 10/19/2018, effective 10/19/2018](#)

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<p>SUBJECT: Updates and edits to School Finance rules/OAR 581-023 School Finance STAFF NAME & OFFICE: Mike Wiltfong and Ely Sanders</p> <p>There are three topics that need to be updated or edited in the school finance rules.</p> <p>The first rule to be updated is the non-reimbursable mileage rates for Pupil Transportation under 581-023-0040. These updates are made each biennium and are based on Oregon’s Consumer Price Index.</p> <p>The second item to be edited is under the definition of Patron in 581-023-0040, where there are exceptions for fees received that would normally be considered a reduction of cost. Adding the Oregon State University Outdoor School to the definition allows the program to pay the balance of what is not covered by the Transportation Grant, so the cost of the travel is budget neutral for the school districts.</p> <p>The third item to be edited is intended to create incentive for school districts to process Medicaid claims, which has the potential of adding millions of dollars in federal revenues for school districts. There is belief if we remove the disincentive for billing for Medicaid under the High Cost Disability grant program in 581-023-0104, the administrative burden for billing Medicaid would be reduced and the additional revenues could be used to pay for school nurses and counselors, which are greatly needed.</p>	<p><input checked="" type="checkbox"/> Informational Presentation</p> <p><input type="checkbox"/> Written Report</p>
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BACKGROUND

Outdoor School has a long tradition in Oregon, with some programs dating back 50 years, but not everyone has had access to the program. In 2016, Oregon voters passed Measure 99 mandating that all Oregon fifth or sixth-grade students should have the opportunity to attend a week-long outdoor school program or comparable outdoor education program. In November 2018, Oregon State University reported a little more than 30,000 students participated in Outdoor School in 2017-18. This included eighteen new school districts applying for funding, which is an increase of 14% over the previous year.

It is anticipated over 42,000 would participate in the program during the 2018-19 school year, which is over three-quarters of eligible students statewide. But there is hope that removing a potential cost barrier with transportation reimbursements and reducing costs for school districts will result in increased participation and sustained access for students.

By changing the definition of Patron to include the OSU Outdoor School program, school districts will be able to have their transportation costs reimbursed up to 100% of cost. The Transportation Grant in the State School Fund will pay the majority of the travel costs and the Outdoor School program will be able to leverage their grant funding to pay the balance, thus making the transportation costs budget neutral to school districts.

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OSU staff approached ODE staff this year to see if there would be any opportunity to leverage their grant funds to reduce potential barriers for school districts to access Outdoor School programs. ODE staff identified there would need to be a change in rule, otherwise the desired result could not be achieved. All of the stakeholders and ODE staff we have discussed this proposal with support this concept.

Medicaid Billing and funding to support the administration and efforts of school districts was once paid for as a carve-out of the State School Fund. The law still references this carve-out under ORS 327.023(2), where it states: *Medicaid match for administration efforts to secure Medicaid funds for services provided to children with disabilities*. Since this carve-out no longer exists, the administrative costs and responsibility has now been passed onto the school districts, which is difficult given limited resources.

For the past two years, the Oregon Department of Education has conducted a pilot study to monitor Medicaid Billing and cost sharing in Oregon, as it appears school districts are not aggressively pursuing these revenues as compared to other states. This can be seen in data provided by the Department of Human Services.

We know School districts are a critical component of the health care safety net for children. Medicaid plays a significant role in funding medically necessary services for children eligible for special education. However, Medicaid's role in schools goes beyond ensuring that students with disabilities have access to health related services.

Medicaid provides support for health care services delivered in school, which benefit all children, not just those enrolled in Medicaid.

In a recent survey of school superintendents, over half reported that they use the federal Medicaid reimbursement for services provided to Medicaid-eligible children to expand health-related services and supplies for all students. However, it was also revealed in this work that there was a disincentive under the High Cost Disability Grant, where any revenues from Medicaid billing needed to be deducted from individual student costs, which is difficult to translate due to timing and scope of work with limited staffing and resources.

Based on current practice, in many cases revenues from Medicaid Billing simply reduced the costs for qualifying students in the High Cost Disability Grant, thus increasing the available rate of reimbursement for everyone, which on principle should work just fine if everyone is doing this work. However, the rate of Medicaid reimbursement and the administrative burden to pursue these revenues in business offices that have sustained staff reductions due to limited resources often times did not justify the effort, risk and priority, and many opportunities for reimbursement were lost over recent years.

We believe and we have been told by stakeholders that removing three words under 581-023-0104(4)(b): *Reimbursed Medicaid expenditures* will create incentive for school districts to pursue Medicaid Billing for eligible students, thus generating millions of additional dollars for Oregon students. Even with these additional revenues and the assistance of the High Cost Disability Grant, school districts will still share in the cost of providing services at some level.

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I.e., they won't receive more than 100% reimbursement for their direct and indirect service costs for high needs students.

The rate of reimbursement under the \$35 million High Cost Disability Grant for the 2017-18 school year is .41¢ on the dollar. There were 4,413 qualifying students with over \$217 million in associated costs, where after accounting for the \$30,000 threshold for each student, almost \$85 million was eligible for reimbursement. That translates to over \$132 million that has to be covered by school districts due to the threshold, let alone the \$50 million that is paid at .41¢ on the dollar. All total, that's approximately \$150 million of high needs costs that has to be covered by other resources and we're hoping the Medicaid Billing will be a step in the right direction to help students and school districts with these costs.

There has been ongoing stakeholder engagement with ODE staff and the Director's office, and this edit has widespread support.

The non-reimbursable mileage rate is updated on a biennial schedule to account for increased pupil transportation costs over time and uses the Consumer Price Index associated with Oregon to adjust the rates.

The Transportation Grant is a long standing program in the State School Fund that dates back to the early 1990s when the state mandated school districts provide transportation services for eligible students.

The non-reimbursable rate is established to account for costs associated with pupil transportation trips that aren't eligible for reimbursement, so a rate and resulting dollar amount is deducted from a school district's eligible costs, thus resulting in a net-eligible amount. Non-reimbursable mileage is defined in 581-023-0040(4)(a) through (j) and would be associated with trips for ineligible students, activity trips other than for instructional purposes, athletic trips, summer school, etc.

This is a routine update every two years, where we add rates for the current biennium and remove two years for a previous biennium. This poses minimal risk and is a long standing practice.

SUMMARY OF PREVIOUS BOARD ACTION

1. Has this been before the board before? If so, what action did the board take? No, this has not been before the Board before.

POLICY ISSUE OR CONCERNS

These policy issues or concerns could be from the field, stakeholder groups, statements submitted during the comment period, or discussions among ODE staff. Consider the following questions:

1. Stakeholders
 - a. How have you intentionally involved stakeholders who are also members of communities affected by this rule?
 - b. Who are the historically underserved groups affected?

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- c. If the rule change or policy decision has tribal implications and it has been deemed appropriate by the Department's Tribal Liaison, the Deputy Superintendent, or State Board, has there been engagement or collaboration with tribes in this rule change or policy decision?
- d. How has the Oregon Department of Education modified or enhanced the rule change or policy decision to address the needs of historically underserved communities?
2. Negative/Positive Effects
 - a. What is the impact on the population most affected by this rule that the board should consider?
 - b. What is the impact on eliminating the opportunity or achievement gap?
 - c. Have all the potential unintended consequences been considered?
 - d. Does this rule advance the 40/40/20 goals?
3. What are the barriers to more equitable outcomes, either:
 - a. State or federally mandated?
 - b. Political?
 - c. Emotional?
 - d. Financial?
 - e. Programmatic?

QUITY IMPACT ANALYSIS

The following questions are designed to examine how the proposed rule, policy or action systematically affect historically underserved students and/or communities.

1. Will historically underserved populations be impacted by this docket item?
 - a. If yes, describe how the rule changes, policy, or action could produce other unintended consequences not listed in the docket.
 - b. If no, refer to *Policy Issue or Concerns* and identify the historically underserved populations affected. Conduct a reflection and examination, which will and should answer 1a.
2. Examine the potential impact of the rule changes, policy, or action on historically underserved populations in Oregon. Describe this ongoing and/or foreseeable impact, using as much detail as possible.
3. Explain how the rule change, policy, or action works toward the elimination of either (one or both):
 - a. the achievement gap
 - b. the opportunity gap

FISCAL ANALYSIS

Are there any fiscal impacts that the Board should consider as part of this update or report? Does the proposed rule change impact other stakeholders?

ATTACHMENTS

Attachment 1:

CREATED BY EN 10-8-19

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) or ORS 327.390) if the school or agency reimburses school districts up to one hundred percent (100%) of incurred transportation costs pursuant to ORS 338.145, ~~or 339.133(4)~~ or 327.390.

(g) "Supplemental Plan" means a plan adopted by local school board resolution identifying groups or categories of students who live within the 1 and 1.5 mile limitations and require transportation based on health or safety reasons, including special education. Supplemental plan approvals may be ordered by the State Board of Education or its designated representatives. The State Board shall have the right of final review of any actions regarding supplemental plans. Appeals will be directed to the State Board for final consideration. The Plan must include the following:

(A) The approximate number of students to be transported based on the plan;

(B) The health or safety reasons cited for providing transportation;

(C) The local board resolution specifying the supplemental plan as submitted; and

(D) Any additional information or documentation supporting the supplemental plan deemed appropriate locally.

(2) Approved transportation costs shall include those costs incurred in transporting pupils to and from instructional programs during the regularly scheduled school term within the limitations specified by ORS 327.006 and 327.033. Approved transportation costs may include costs incurred in transporting students participating in extended school year programs eligible for funding from the State School Fund.

(3) Approved transportation costs shall include those district expenditures associated with:

(a) Home-to-school transportation of elementary school pupils who live at least one mile from school;

(b) Home-to-school transportation of secondary school pupils who live at least one and one-half miles from school;

(c) Transportation of pupils between educational facilities either within or across district boundaries, if the facilities are used as part of the regularly-scheduled instructional program approved by the Board;

(d) Transportation of pupils for in-state field trips when such represents an extension of classroom activities for instructional purposes, and shall include out-of-state destinations within 100 miles of the Oregon border;

(e) Transportation of pupils home to school for whom a supplemental plan has been approved by the State Board of Education in addressing safety, health, and special education needs;

(f) Transportation of preschool children in Early Childhood Special Education Services having an Individual Family Service Plan requiring transportation and preschool children receiving Early Intervention Services under the authority of ORS 343.533.

(g) School to home transportation following extended school day instructional programs for:

(A) Elementary school pupils who live at least one mile from school;

(B) Secondary school pupils who live at least one and one-half miles from school.

(4) Approved transportation costs shall exclude those district expenditures associated with transportation for the following unless the school program is required under provisions of the Individuals with Disabilities Education Act, ORS 343.533 or 339.010 through 339.090 and 339.250:

(a) Pupils living within the limits prescribed in ORS 327.006(2) for whom no supplemental plan has been approved by the State Board;

(b) Activity trips other than for instructional purposes;

(c) Athletic trips;

(d) School lunch purposes;

(e) Summer school;

(f) Adult education;

(g) Evening school;

(h) Preschool and/or nursery school;

(i) Board and room in lieu of transportation associated with field trips;

(j) Transportation facility and staff costs other than those directly related to approved pupil transportation activities.

(5) The computation shall be made as follows:

(a) Pupil Transportation Salaries;

(b) Pupil Transportation Supplies, Equipment, Repairs, and Maintenance;

(c) All contracted Transportation;

(d) Travel of Pupil Transportation Personnel;

(e) Employee Benefits on Pupil Transportation Salaries;

(f) Pupil Transportation Insurance;

(g) Payments in Lieu of Transportation;

(h) Other Expenses of Pupil Transportation;

(i) Payments to Other Districts for Pupil Transportation;

(j) Leases and Rentals;

(k) Depreciation:

(A) Depreciation of Garage, but this shall not include land;

(B) Depreciation of Buses that are used at least 50% for reimbursable mileage.

(C) Shall include the costs to the district to retrofit, repower, or to replace as defined in ORS 468A.795, school buses for the purpose of reducing or eliminating diesel engine emissions. These costs:

(i) Shall not include the costs paid with moneys received from the state by a school district from the Clean Diesel Engine Fund that are described in 468A.801 (2)(a); and

(ii) Shall include costs to paid with moneys received from the state as allowed by the Environmental Mitigation Trust Agreement as defined in ORS 468A.801 (2)(c).

(l) Total of subsections (5)(a) through (k) of this rule;

(m) Deduct (if cost is included in detail above):

(A) Payments Received from Other Districts and from Patrons for reimbursable transportation;

(B) Non-reimbursable Transportation Costs:

~~(i) For 2015 – 16:~~

~~(I) Number of miles at \$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 at \$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.~~

~~(ii) For 2016 – 17:~~

~~(I) Number of miles at \$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 at \$1.22 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity of 20 or less including the driver.~~

~~(iii)(i) For 2017 – 18:~~

(I) Number of miles at \$2.52 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity of greater than 20 persons including the driver, or

(II) Number of miles at \$1.27 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity of 20 or less including the driver.

~~(iv)(ii) For 2018 – 19:~~

(I) Number of miles at \$2.62 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity of greater than 20 persons including the driver, or

(II) Number of miles at \$1.31 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity of 20 or less including the driver.

~~(iii) For 2019 – 20:~~

~~(I) Number of miles at \$2.66 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity of greater than 20 persons including the driver, or~~

~~(II) Number of miles at \$1.33 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity of 20 or less including the driver.~~

~~(iv) For 2020 – 21:~~

~~(I) Number of miles at \$2.70 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity of greater than 20 persons including the driver, or~~

(II) Number of miles at \$1.36 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity of 20 or less including the driver.

(v) (I) Those local school board certified marginal costs attributable to services provided to students who are not eligible for home-to-school transportation under section 3, calculated and documented as follows: Documentation maintained by local district shall include: bus and route identification, school(s) being served, number of eligible students on board, number of ineligible students on board;

(II) Calculation of marginal costs shall be as follows: District Cost Per Mile of bus operation divided by the total number of students transported on each bus to derive an average cost per student. The cost per student multiplied by the number of ineligible students and the number of miles transported provides the amount for deduction. Example: Cost per student = district cost per bus mile - number of students on bus; Total Deduction = cost per student x ineligible students x number of miles transported.

(III) No deduction will be made for transportation inside prescribed limits if the local board certifies student demographics would require student bus rides to or from school of more than one hour if the bus is routed in a manner making it accessible to the number of eligible students living outside the prescribed mileage limit equal to 130 percent of the bus manufacturer's rated capacity; or

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

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

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

(I) Deductions:

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

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

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

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

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

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

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

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

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

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

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

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

(a) Salaries;

(b) Operation:

(A) Utilities;

(B) Supplies;

(C) Other Operational Costs.

(c) Maintenance:

(A) Upkeep;

(B) Replacement.

(d) Fixed Charges:

(A) Employee Benefits;

(B) Other Fixed Charges.

(e) Food;

(f) Operation of Buses and Other Vehicles — Supplies, Repairs and Maintenance;

(g) Depreciation:

(A) Dormitory;

(B) Buses and Other Vehicles.

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

(i) Deductions (subtract if cost is included in cost above):

(A) Payments Received from Other Districts and from Patrons;

(B) Nonreimbursable Transportation Costs as indicated in subsection (5)(m)(B) of this rule;

(C) State and Federal Receipts for Transportation, except those apportioned under ORS 327.006, 327.033, or third party Medicaid payments, if used to support expenditures in subsections (10)(a) through (g) of this rule;

(D) Federal School Lunch, Breakfast, and Milk Reimbursements;

(E) Sales of Food.

(j) Total Deductions (sum (10)(i)(A) + (i)(B) + (i)(C) + (i)(D) + (i)(E));

(k) Approved Cost ((10)(h) minus (10)(j) of this rule).

(11) The items included in the board and room entitlement computation are defined as follows:

(a) Salaries. Salaries and wages paid dormitory personnel, including the dormitory manager, cooks, custodians, and other personnel directly concerned with operation of the dormitory, and that portion of salaries paid secretarial and clerical assistants and other personnel attributable to the dormitory program;

(b) Operation:

(A) Utilities. Heat for buildings, water and sewage, electricity, telephone, and other utilities necessary for the operation of the dormitory;

(B) Supplies. Custodial supplies, supplies for care of grounds, linens, and other supplies necessary for the operation of the dormitory including food services. Purchase of food is included in subsection (11)(e) of this rule;

(C) Other Operational Costs. Contracted custodial services, window washing, laundry or linen services, etc., necessary for the operation of the dormitory.

(c) Maintenance:

(A) Upkeep. Expenditures associated with maintaining the existing dormitory facilities in a safe, healthy, and efficient condition, including supplies and materials for upkeep of dormitory grounds and the dormitory building. Costs associated with maintenance of recreational or entertainment facilities are excluded;

(B) Replacement of Equipment. Expenditures associated with replacing equipment necessary to the safe, healthy, and efficient operation of the dormitory. Replacement of equipment used for recreational or entertainment purposes are excluded.

(d) Fixed Charges:

(A) Employee Benefits. Expenditures for dormitory employees' benefits including social security and retirement, employee health insurance, workers' compensation, and unemployment insurance;

(B) Other Fixed Charges. Expenditures for property insurance, liability insurance, rental of land and buildings for purposes associated with operation of the dormitory, and other fixed charges directly attributable to operation of the dormitory.

(e) Food. Expenditures for food necessary for the operation of the dormitory;

(f) Operation of Buses and Other Vehicles — Supplies, Repairs, and Maintenance. Expenditures for fuel, oil, lubricants, tires, tire repair, batteries, vehicle repair parts and supplies, repair of vehicles by other than the school district, garage maintenance and operation, and garage equipment repair and maintenance necessary for the operation of buses utilized for purposes stated in section (3) of this rule and of other vehicles necessary for the operation of the dormitory;

(g) Depreciation:

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

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

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

(i) Deductions:

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

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

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

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

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

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

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

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

Statutory/Other Authority: ORS 327.013 & 820.100 - 820.120

Statutes/Other Implemented: ORS 327.013 & 820.100 - 820.120

History:

[ODE 4-2018, amend filed 02/21/2018, effective 02/21/2018](#)

ODE 46-2016, f. & cert. ef. 11-1-16

ODE 4-2016, f. & cert. ef. 2-5-16

ODE 39-2014, f. & cert. ef. 9-3-14

ODE 22-2011, f. & cert. ef. 12-15-11

ODE 6-2010, f. & cert. ef. 4-26-10

ODE 8-2008, f. & cert. ef. 3-21-08

ODE 10-2006, f. & cert. ef. 2-21-06

ODE 9-2003, f. & cert. ef. 6-13-03

ODE 25-2001, f. & cert. ef. 11-7-01

ODE 9-2000, f. & cert. ef. 4-5-00

EB 4-1997, f. & cert. ef. 4-25-97

EB 21-1993, f. & cert. ef. 6-2-93

EB 3-1992, f. & cert. ef. 2-21-92

EB 42-1988, f. & cert. ef. 11-15-88

EB 32-1987, f. & ef. 12-10-87

EB 4-1987, f. & ef. 2-20-87

1EB 5-1986, f. 1-30-86, ef. 2-1-86

1EB 1-1985, f. 1-4-85, ef. 1-7-85

1EB 17-1983, f. 11-23-83, ef. 11-25-83

1EB 15-1982, f. 8-4-82, ef. 8-5-82

1EB 4-1982, f. & ef. 2-10-82

1EB 6-1981, f. 3-2-81, ef. 3-3-81

1EB 10-1980, f. & ef. 5-5-80

1EB 4-1978, f. 1-27-78, ef. 1-27-78

1EB 233, f. 6-11-76, ef. 6-18-76

1EB 220, f. 2-17-76, ef. 3-15-76

1EB 209, f. 12-5-75, ef. 1-16-76

1EB 181, f. 1-17-75, ef. 7-1-75

1EB 177, f. 10-2-74

CREATED BY EN 10-8-19

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; and

~~(b) Reimbursed Medicaid expenditures;~~

~~(e)~~(b) 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.

Statutory/Other Authority: ORS 326.051 & 327.348

Statutes/Other Implemented: ORS 327.348

History:

ODE 32-2007, f. & cert. ef. 12-12-07

ODE 6-2004, f. & cert. ef. 3-15-04

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) The State Board of Education delegates to the Superintendent of Public instruction or designee all administrative functions necessary or reasonable in order to disburse the assets. This delegation to the Superintendent includes, but is not limited to:

(a) Determining the form, process, and timelines for the disbursement;

(b) Determining the records required for the disbursement; and

(c) Requiring the public charter school governing body or school district board to respond to written or oral inquiries related to the closure and assets of the public charter school.

~~(2)~~(3) 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)~~(2) of this rule.

Statutory/Other Authority: ORS 326.051

Statutes/Other Implemented: ORS 338.015

History:

Renumbered from 581-020-0395, ODE 10-2014, f. & cert. ef. 2-19-14

ODE 19-2002, f. & cert. ef. 8-2-02

Oregon State Board of Education

MEETING DATE

AGENDA ITEM: 4.D

<p>SUBJECT: OAR 581-026-0515 Distribution of Assets of a Terminated or Dissolved Public Charter School</p> <p>STAFF NAME & OFFICE: Kate Pattison, Director's Office</p> <p>The proposed amendments delegate the administrative functions and decisions related to distributing the assets of terminated or dissolved public charter schools to the Superintendent of Public Instruction.</p> <p><input type="checkbox"/> New Rule <input checked="" type="checkbox"/> Amend Existing Rule <input type="checkbox"/> Repeal Rule</p>	<p><input checked="" type="checkbox"/> First Reading <input checked="" type="checkbox"/> Presentation <input type="checkbox"/> No Presentation</p> <p><input type="checkbox"/> Action <input type="checkbox"/> Temp Rule <input type="checkbox"/> Presentation <input type="checkbox"/> No Presentation</p>
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BACKGROUND

According to ORS 338.105(6), if a public charter school is terminated or a public charter school is dissolved, the assets of the public charter school that were purchased with public funds shall be given to the State Board of Education. The State Board of Education may disburse the assets of the public charter school to school districts or other public charter schools.

ORS 338.105(6) If a charter is terminated or a public charter school is dissolved:

(a) The assets of the public charter school that were purchased with public funds shall be given to the State Board of Education. The State Board of Education may disburse the assets of the public charter school to school districts or other public charter schools.

Every year, the Board hears requests from public charter schools and districts regarding where the assets of public charter schools should be distributed. Following Board decision, the Department coordinates all communication and logistics to ensure equitable distribution of the assets according to state and federal regulations. For over eight years, the Board has followed the Department's recommendations on asset distributions.

In an effort to focus the Board's time and resources on state-level policies, the Department is recommending that the Board delegate all decisions and administrative functions related to distributing assets of terminated or dissolved public charter schools to the Director and Department staff. The delegation language in this proposed rule amendment is consistent with the other delegations in State Board rules pertaining to public charter school.

SUMMARY OF PREVIOUS BOARD ACTION

This is the first time the rule amendment has been presented to the Board.

Oregon State Board of Education

MEETING DATE

AGENDA ITEM: 4.D

HAS THE RULE CHANGED SINCE LAST BOARD MEETING?

- N/A; first read—hasn't been before board
- No; same as last month
- Yes – As follows:

POLICY ISSUE OR CONCERNS

The board reviewed public charter school topics at the retreat in August 2019. There was a discussion about which functions are delegated to the Department and which the Board continues to hear at meetings throughout each year. The Board expressed interest in delegating distributing assets of terminated or dissolved public charter schools

EQUITY IMPACT ANALYSIS

Delegating the distribution of assets from terminated or dissolved public charter schools would allow the Board more time each year to discuss and consider critical state-level policies with a greater equity impact for students in Oregon.

FISCAL ANALYSIS

This rule amendment has no fiscal impact on the Department or other organizations.

EFFECT OF A "YES" OR "NO" VOTE

"Yes" Vote – The Department will manage and process the distribution of assets from terminated or dissolved public charter schools. This will reduce the time the Board discusses charter school topics by 1-2 hours each year.

"No" Vote - The Board will continue to make decisions on the distribution of assets from terminated or dissolved public charter schools. The Board spends about 1-2 hours each year discussing charter school asset distribution topics.

STAFF RECOMMENDATION

- Approve Approve next month No recommendation at this time
Prompted by: State law changes Federal law changes other

ATTACHMENTS

Attachment 1: OAR 581-026-0515 Charter School Assets Draft

Oregon State Board of Education

October 17, 2019

AGENDA ITEM: 6.A

<p>SUBJECT: Restraint and Seclusion Rules</p> <p>581-021-0550: Definitions for Restraint and Seclusion 581-021-0553: Use of Restraint and Seclusion in Public Education Programs 581-021-0556: Procedures Regarding Restraint and Seclusion 581-021-0563: Approval of Restraint and Seclusion Training Programs for School Staff 581-021-0566: Required Use of Approved Restraint and Seclusion Programs</p> <p>581-021-0559: (REPEALED: Reporting Requirements) 581-022-2267: (NEW: Annual Report on use of Restraint and Seclusion)</p> <p>STAFF NAME & OFFICE: Lisa Bateman/Office of Student Services Stacey Guise/Office of the Director</p> <p>Senate Bill 963 was signed into law by Governor Brown with an effective date of July 1, 2019. This legislation changes the restraint and seclusion laws in Oregon public education programs. Rulemaking is necessary to update the restraint and seclusion rules to make them consistent with the new restraint and seclusion law and to further clarify some of the changes made to restraint and seclusion via SB 963. Another goal of the rulemaking is to provide clarification on what actions will constitute a seclusion. There are additional minor changes that have been made to the rules either for style reasons or for increased readability.</p> <p><input checked="" type="checkbox"/> New Rule: (division 22) <input checked="" type="checkbox"/> Amend Existing Rule (division 21) <input checked="" type="checkbox"/> Repeal Rule (581-021-0559)</p>	<p><input type="checkbox"/> First Reading <input type="checkbox"/> Presentation <input type="checkbox"/> No Presentation</p> <p><input checked="" type="checkbox"/> Action <input type="checkbox"/> Temp Rule <input checked="" type="checkbox"/> Presentation <input type="checkbox"/> No Presentation</p>
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BACKGROUND

History:

Recent reports and publications have emphasized the existence of an issue in Oregon’s classrooms related to disrupted learning resulting from student behavior. Oregon’s previous statute (ORS 339.291) stated that physical restraint or seclusion may be used on a student in a public education program only if the student’s behavior imposed a reasonable threat of imminent, serious bodily injury¹ to the student or others; **and** less restrictive interventions would not be effective.

The previous statute did not allow for the use of restraint except under these very specific circumstances. The previous statute additionally lacked a comprehensive list of prohibited uses of restraint and created confusion in the field regarding the threshold for the application of restraint in scenarios where lesser interventions have failed.

Senate Bill 963 was signed into law by Governor Brown with an effective date of July 1, 2019.

¹ Under ORS 339.285 and OAR 581-021-0550 “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.

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This legislation changes the restraint and seclusion laws in Oregon public education programs. SB 963 modifies existing statutes pertaining to restraint and seclusion to clarify that area of law, which will better assure student and staff safety while maintaining student dignity. SB 963 modifies allowed and prohibited uses of restraint of students by public education program staff.

In sum, the passage of SB 963 makes the following changes:

- Updates the definition of restraint (and the term from 'physical restraint' to 'restraint')
- Clarifies the threshold for intervention involving the use of restraint by providing the situations under which restraints can be used
- Defines certain situations involving physical intervention that are not considered restraint
- Expands specificity of non-allowable restraint
- Ties state school funding to Division 22 reporting

Purpose:

In the 2011 legislative session, HB 2939 was passed with an effective date of January 1, 2012 (Chapter 665, 2011 Laws). The function of the current rules 581-021-0550 through 581-021-0570 is to further define ORS 339.285 *et seq.* describing the use of restraint and seclusion in public education programs.

Below is a list of required *non-discretionary* changes that are being made to the restraint and seclusion rules to make them consistent with SB 963:

1. The rules delete the old definition for "physical restraint."
2. A new definition for "restraint" has been added. *See* draft OAR 581-021-0550(5).
3. A definition for "supine restraint" has been added. *See* draft OAR 581-021-0550(10).
4. The rules incorporate the list of prohibited types of restraints found in SB 963, which include, among other things, restraints involving the intentional use of a solid object to impede a student's movement and supine restraints. *See* draft OAR 581-021-0553(1)(a).
5. The rules add language prohibiting the use of any action designed for the primary purpose of inflicting pain on a student. *See* draft OAR 581-021-0553(1)(b).
6. The previous rule that specified that restraint and seclusion may not be used for discipline, punishment, or the convenience of personnel, has been amended to add that restraint and seclusion may not be used for retaliation or for the convenience of contractors or volunteers of a public education program. *See* draft OAR 581-021-0553(2).
7. The rules add new thresholds for when it is appropriate to use restraint and seclusion. *See* draft OAR 581-021-0553(3).
8. OAR 581-021-0559, which details the annual reporting requirements for restraint and seclusion, has been repealed. In its place, a new rule with the annual reporting requirements has been added to Division 22, making compliance with the reporting requirements mandatory to be considered a standard school pursuant to SB 963. *See* draft OAR 581-022-2267.

Below is a list of proposed changes made to further clarify the changes made to the law in SB 963.

Recommendations are as follows, with board discretion for adoption:

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1. SB 963 requires risk of “substantial physical or bodily injury” for restraints to occur, but does not define that term. The rules define the term “substantial physical or bodily injury” to make it clear what level of risk is required before a restraint may be used. See draft OAR 581-021-0550(9).
2. SB 963 prohibits the intentional use of a solid object to restrain a student, but was silent on the use of objects as a safe protective mechanism for adult use. The rules provide an exception to the prohibition against restraints involving the intentional use of a solid object, which allows personnel of a public education program to use a solid object during a restraint if the solid object is used for their own support, stability, or control in performing the restraint. That exception also provides a non-exclusive list of solid objects that might be used in that manner. See draft OAR 581-021-0553(1)(a)(E)(ii).

Below is a list of proposed changes made to provide further clarification on what actions will constitute a seclusion.

Board discretion exists on this issue, as SB 963 did not include changes to the law pertaining to seclusion. However, complaints received by the Oregon Department of Education (“Department”) have made it apparent that there is confusion in the field surrounding what constitutes a seclusion and the proposed changes are designed to assure firm guidance to the field.

1. The rules add language to the definition of the term “seclusion” to specify that seclusion includes the involuntary confinement of a student alone in a room with a closed door, whether the door is locked or unlocked. See draft OAR 581-021-0550(6)(a).
2. The rules also add language to explain that seclusion does not include a student being left alone in a room for a brief period of time if the incident has occurred for a reason unrelated to the student’s behavior. See draft OAR 581-021-0550(6)(b)(B).

Stakeholder voice/input

A SB 963 Restraint & Seclusion Stakeholder Workgroup was closely involved in bringing these proposed rules to the Board. In the Summer of 2019, the Department engaged broad stakeholder input in person in July, during a half day convening. Draft rules were written based upon input received from stakeholders during the July meeting. An additional half-day engagement opportunity in August was held to receive feedback on the draft rules. Additional changes were made to the rules based on the stakeholder feedback received during that meeting. That updated draft of the rules was then circulated to the field via email on August 28, 2019 for any additional feedback. We have summarized the additional feedback we received based on that email circulation of the latest draft and the Department’s action taken in response to that feedback in the docket below.

The fifty member stakeholder group was intended to be a representative sample of those affected by statutory changes. Stakeholder workgroup members included individuals who authored SB 963, provided testimony on the bill, or were witnesses in the proceedings leading to the passage of SB 963.

SB 963 Restraint & Seclusion Stakeholder Workgroup members also included broad, diverse representation of individuals from across Oregon, including: public school students who had and had not experienced instances of restraint and/or seclusion, parents of individuals with disabilities, teachers, paraprofessionals, school psychologists, behavioral specialists, school administrators, and community members. Stakeholder membership was intentionally constructed to represent varied geographic

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regions and school district size, to include perspectives from ESDs and EI/ECSE programs, and to ensure voices were heard from both rural and urban settings.

Finally, the stakeholder group included representation from the following organizations and/or constituencies:

- Confederation of Oregon School Administrators
- ODE² Civil Rights
- Oregon School Board Association
- FACT Oregon
- State Advisory Council for Special Education
- Oregon School Employees Association
- Oregon Association of Education Service Districts
- Youth ERA
- Disability Rights Oregon
- Oregon Education Association
- Salem-Keizer Education Association
- Oregon Alcohol and Drug Policy Commission
- Oregon School Psychology Association
- ODE Office of Equity, Diversity and Inclusion
- ODE Tribal Liaison
- Sponsoring Member of the Senate
- Legislative Staff

Additionally, once the draft rules were finalized based on the feedback we received from the stakeholder group, an email was sent out to restraint and seclusion complainants seeking their feedback on the proposed rules.

SUMMARY OF PREVIOUS BOARD ACTION

The first read of the restraint and seclusion rules occurred at the September 2019 State Board of Education meeting.

HAS THE RULE CHANGED SINCE LAST BOARD MEETING?

- N/A; first read—hasn't been before board
- No; same as last month
- Yes – As follows:

² As used in this list, “ODE” refers to the Oregon Department of Education.

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CHANGES SINCE LAST BOARD MEETING:

The previous draft rules provided an exception to the prohibition against restraints involving the intentional use of a solid object, which would allow personnel of a public education program to use a solid object during a restraint if the solid object is used for the person's own support, stability, or control in performing the restraint.

The Department has made the following changes to that exception:

1. The words used to refer to the person performing a restraint have been changed to make the provision less wordy. Instead of "by personnel of a public education program who are performing a restraint," the rule now says "by public education program personnel performing a restraint"
2. Based on stakeholder feedback, the Department has eliminated the words "but not limited to" after "including"
3. Based on stakeholder feedback, the Department has added a provision to the exception to specify that the solid object may not be used as a mechanism to apply pressure directly to a student

Following those changes, the provision now reads:

581-021-0553: Use of Restraint and Seclusion in Public Education Programs

(1)(a) The use of the following types of restraint on a student in a public education program is prohibited:

* * * * *

(E)(i) Any restraint that involves the intentional and nonincidental use of a solid object, including a wall or the floor, to impede a student's movement, unless the restraint is necessary to prevent an imminent life-threatening injury or to gain control of a weapon;

(ii) Notwithstanding paragraph (a)(E)(i) of this subsection, the use of a solid object, including a piece of furniture, a wall, or the floor, by public education program personnel performing a restraint is not prohibited if the object is used for the personnel's own stability, support, or control while performing the restraint and not as a mechanism to apply pressure directly to the student's body;

STAKEHOLDER INPUT SINCE LAST BOARD MEETING:

The Department sent out the rule changes to the fifty member stakeholder group for feedback. Additionally, the rules were posted to social media for feedback via the International Collalition Against Restraint and Seclusion. The rules were also presented to the nine federally recognized tribes at the September Government-to-Government meeting.

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STAKEHOLDER COMMENTS

1. Seclusion:

One stakeholder commented that the proposed rules did not address the stakeholder's previous concern that the rules limit the definition of seclusion to a physical room. The concern was that the use of the word "room" in the definition of seclusion may be confusing and may encourage the belief that seclusion is allowed via corralling students with mats, in fenced areas, or other secured areas as long as it is not a room. The stakeholder previously suggested that the word "room" be replaced with the word "space."

Action: The rules were not changed based on this comment.

In ORS 339.285, seclusion is defined as "the involuntary confinement of a student alone in a room from which the student is physically prevented from leaving." That definition, which uses the word "room," was not changed by SB 963. For that reason, a revision of the definition of seclusion to delete the word "room" and add the word "space" would require a legislative-fix and cannot be accomplished through rulemaking.

2. Solid Object Exception:

Prior to the first reading of the rules at the September 19th State Board of Education meeting, a stakeholder had commented that the rules did not make clear that when an educator uses a solid object "[p]ressure would not be applied to the student's body." To address that concern, the stakeholder had suggested that the following language be added: "[t]here is no pressure applied between the student's body and the object, including but not limited to a piece of furniture, a wall or the floor except for incidental pressure that would be caused by gravity when a student was not in a restraint." The Department's body of stakeholders previously had rejected language included in an earlier draft of the rules that specified that any restraint involving the use of a solid object "as a means to apply pressure to the student" is prohibited. Because stakeholders had rejected similar language in an earlier draft of the rules, at the time of first reading, the Department planned to continue to work with stakeholders to come up with a viable solution to address this concern.

Action: To address this concern, the Department has added a provision to the exception to clarify that the solid object may not be used as a mechanism to apply pressure directly to a student's body.

POLICY ISSUE OR CONCERN

Centered around discretionary rule making pertaining to clarification of SB 963 changes and the clarification of what actions constitute seclusion:

DISCRETIONARY RULEMAKING: CLARIFICATION OF SB 963 CHANGES

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Issue	Proposed Solution	Draft OAR Language
SB 963 requires risk of “substantial physical or bodily injury” for restraints to occur, but does not define that term.	Define “substantial physical or bodily injury” within OARs.	“Substantial physical or bodily injury” means any impairment of the physical condition of a person that requires some form of medical treatment. <i>Draft OAR 581-021-0550(9)</i>
SB 963 prohibits the intentional use of a solid object to restrain a student, but was silent on these objects as a safe protective mechanism for adult use.	Exception to allow personnel of a public education program to use a solid object during a restraint if the solid object is used for their own support, stability, or control in performing the restraint.	The use of a solid object, including but not limited to a piece of furniture, a wall or the floor, by personnel of a public education program who are performing a restraint is not prohibited if the object is used for the personnel’s own stability, support or control while performing the restraint. <i>Draft OAR 581-021-0553(1)(a)(E)(ii)</i>

DISCRETIONARY RULEMAKING: CLARIFICATION ON WHAT ACTIONS CONSTITUTE A SECLUSION

Issue	Proposed Solution	Draft OAR Language
Insufficient clarity in the definition of what constitutes a seclusion	Add language to the section to define the term “seclusion” with further specificity	“Seclusion” means the involuntary confinement of a student alone in a room from which the student is physically prevented from leaving. Seclusion includes, but is not limited to, the involuntary confinement of a student alone in a room with a closed door, whether the door is locked or unlocked. <i>Draft OAR 581-021-0550(6)(a)</i>
Insufficient clarity in the definition of what does not constitute a seclusion	Add language to the section to describe actions that are not considered “seclusion”	“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; or A student being left alone in a room with a closed door for a brief period of time if the student is left alone for a purpose that is unrelated to the student’s behavior. <i>Draft OAR 581-021-0550(6)(b)</i>

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STAKEHOLDER FEEDBACK ON DRAFT OARS

Feedback received on draft OARs is summarized below³:

Issue of concern / Draft rule text	Summary of Feedback Provided	Action
<p><u>Issue:</u> SB 963 prohibits the intentional use of a solid object to restrain a student, but was silent on these objects as a safe protective mechanism for adult use.</p> <p><u>Draft Rule:</u> The use of a solid object, including but not limited to a piece of furniture, a wall or the floor, by personnel of a public education program who are performing a restraint is not prohibited if the object is used for the personnel’s own stability, support or control while performing the restraint <i>Draft OAR 581-021-0553(1)(a)(E)(ii)</i></p>	<p><u>A proposed revision, as follows:</u> 581-021-0553 (ii) Notwithstanding paragraph (a)(E)(i) of this subsection, the use of a solid object, including but not limited to a piece of furniture, a wall or the floor, by personnel of a public education program who are performing a restraint is not prohibited if:</p> <p style="padding-left: 40px;">(A) The object is used solely for the personnel’s own stability or support or control while performing the restraint; and</p> <p style="padding-left: 40px;">(B) The object, including but not limited to a piece of furniture, a wall or the floor, is not used as a tool for immobilization of the student; and</p> <p style="padding-left: 40px;">(C) There is no pressure applied between the student’s body and the object, including but not limited to a piece of furniture, a wall or the floor except for incidental pressure that would be caused by gravity when a student was not in a restraint.</p>	<p><u>The Department did not change the rules based on this comment.</u></p> <p>The addition of the word “solely” to subsection (A) is unnecessary, because the exception includes an exclusive list of what a solid object may be used for during a restraint.</p> <p>The verbiage “control” is vital to safely performing any restraint technique. Conversely, an unstable restraint lacking in control can feel very destabilizing, unsafe and out of control or for all individuals involved.</p> <p>The following suggested language would be hard to implement: <i>“The object, including but not limited to a piece of furniture, a wall or the floor, is not used as a tool for immobilization of the student[.]”</i> For example, a student who already is on the floor, against a wall or other solid object, or sitting on a piece of furniture when a restraint is performed will, necessarily, be somewhat immobilized by the presence of that solid object.</p> <p>Finally, in an earlier draft of the rules, the Department presented language to stakeholders that would have specified that any restraint involving the use of a solid object as a means to apply pressure to a student is prohibited. That language, as drafted, largely was opposed by the</p>

³ Draft rules were written based upon input received from stakeholders during the July meeting. An additional half-day engagement opportunity in August was held to receive feedback on the draft rules. Additional changes were made to the rules based on the stakeholder feedback received during that meeting. That updated draft of the rules was then circulated to the field via email on August 28, 2019 for any additional feedback. We have summarized the additional feedback we received based on that email circulation of the latest draft and the Department’s action taken in response to that feedback in the docket below.

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Issue of concern / Draft rule text	Summary of Feedback Provided	Action
		stakeholder group. We will continue to have a conversation with stakeholders around this issue and will come forward with recommendations to the board at final adoption.
Issue of concern / Draft rule text	Summary of Feedback Provided	Action
<p><u>Issue:</u> Insufficient clarity in the definition of what constitutes a seclusion.</p> <p><u>Draft Rule:</u> “Seclusion” means the involuntary confinement of a student alone in a room from which the student is physically prevented from leaving. Seclusion includes, but is not limited to, the involuntary confinement of a student alone in a room with a closed door, whether the door is locked or unlocked. <i>Draft OAR 581-021-0550(6)(a)</i></p>	<p><u>A proposed revision, as follows:</u> 581-021-0550 (6)(a) “Seclusion” means the involuntary confinement of a student alone in a room space from which the student is physically prevented from leaving. Seclusion includes, but is not limited to, the involuntary confinement of a student alone in a room with a closed door, whether the door is locked or unlocked or opened or closed.</p>	<p>The Department did not change the rules based on this comment.</p> <p>In the statute, the definition of seclusion uses the word “room” not “space.” See ORS 339.285(3)(a). The seclusion definition was not changed by SB 963. For that reason, a revision of the definition of seclusion to delete the word “room” and add the word “space” would require a legislative-fix and cannot be accomplished through rulemaking.</p> <p>Additionally, if a door is open, the student, by definition, is able to leave and is not involuntarily confined.</p>
Issue of concern / Draft rule text	Summary of Feedback Provided	Action
<p>Insufficient clarity in the definition of what does not constitute a seclusion.</p> <p>“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; or A student being left alone in a room with a closed door for a brief period of time if the student is left alone for a purpose that is unrelated to the student’s behavior. <i>Draft OAR 581-021-0550(6)(b)</i></p>	<p><u>A proposed revision, as follows:</u> “Seclusion” does not include: (A)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; or (B) A student being left alone in a room with a closed door for a brief period of time if the student is left alone for a purpose that is unrelated to the student’s behavior or disability.</p>	<p>The Department did not change the rules based on this comment.</p> <p>There are times that students indeed do need to be left alone in a room, due to their disability, as part of a medical protocol.</p>
Issue of concern / Draft rule text	Summary of Feedback Provided	Action
<p>Addressing matters pertaining to seclusion when the law of seclusion was unchanged by SB 963.</p>	<p>The Department was asked to consider a separate process to deal with any changes to seclusion rules, because SB 963 did not include changes to the</p>	<p>It has become apparent to the Department that there currently is confusion in the field on this issue. The Department decided to address this issue as part of this rulemaking</p>

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Issue of concern / Draft rule text	Summary of Feedback Provided	Action
	seclusion statute and a separate process would allow more input and time to discuss the challenging legal questions raised about locked doors, etc.	to address that confusion. Multiple opportunities for stakeholder input and discussion have occurred and additional opportunities will occur before the rules are presented to the board for final adoption.

EQUITY IMPACT ANALYSIS

Prior to the passage of SB 963, there was uneven understanding of the threshold for restraint and/or seclusion, leading to confusion in the field regarding best practices for utilization of those techniques in a crisis situation, when lesser interventions had failed.

Students with disabilities and students from other historically underserved groups tend to experience a higher rate of physical restraint in public education programs than other student groups. For example, according to the Civil Rights Data Collection (2018), during the 2015-16 school year, students with disabilities were subjected to mechanical and physical restraint and seclusion at rates that far exceeded those of other students. Specifically, students with disabilities served by the Individuals with Disabilities Education Act (IDEA) represented 12 percent of students enrolled in public schools nationally, yet represented 71 percent of all students restrained and 66 percent of all students secluded. African American students represented 15 percent of students enrolled in public schools nationally, yet represented 27 percent of all students restrained and 23 percent of all students secluded. This disparity raises a question as to whether restraint or seclusion are being imposed in discriminatory ways. The use of restraint and seclusion may result in discrimination against students in violation of federal laws that prohibit discrimination, including Section 504 of the Rehabilitation Act of 1973 (Section 504).

The legislative intent of SB 963 is to minimize harm, while ensuring safe learning environments for all Oregon youth. Assuring that Oregon students graduate from high school college- and career-ready requires the state to promote and maintain the engagement and inclusion of ALL learners in safe and healthy environments.

The use of restraint or seclusion on students has been prone to misapplication and abuse. The updated rules and forthcoming updated corresponding guidance (Technical Assistance Manual) will provide further clarity and assistance to the field as to when it is appropriate and not appropriate to use these techniques. This could reduce overall incidences of restraint and seclusion, thus leading to a corresponding reduction in opportunity gaps, access gaps, worthiness gaps and other inequities for both students with disabilities and students from historically marginalized and underserved groups.

FISCAL ANALYSIS

Restraint and seclusion requirements in ORS already require Department FTE to support effective implementation. Department staff is prioritizing this content to assure implementation best-practices. Associated activities include: revising Oregon Administrative Rules, revising Restraint and Seclusion Technical Assistance Manual, and statewide professional development to assure best practices for uniformity of implementation. Additionally, all training program providers approved by the Department under ORS 339.300 have been notified of the passage of SB 963 and are statute compliant.

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Public education programs will need to update their school board policies and professional development on this topic to comply with this legislation. Public education programs will be required to comply with the new Division 22 rule on annual reporting requirements, making compliance with the reporting requirements mandatory to be considered a standard school, pursuant to SB 963. See draft OAR 581-022-2267.

EFFECT OF A "YES" OR "NO" VOTE

If the Board approves these recommendations, there will be more specific guidance to the field regarding implementation of the restraint and seclusion statute in Oregon public education programs. If the Board rejects the recommendations, then the Department will craft a revised version of the rules for future Board approval. In this situation, the Department will not be able to give more specific guidance on areas of the law requiring further clarification until those rules are in place.

STAFF RECOMMENDATION

Approve Approve next month No recommendation at this time
Prompted by: State law changes Federal law changes other

ATTACHMENTS

Attachment 1:
SB 963 Measure Text

Attachment 2:
Restraint and Seclusion rules

581-021-0550

Definitions for Restraint and Seclusion

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; and

(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.~~

(34) “Prone restraint” means a restraint in which a student is held face down on the floor.

(45) “Public education program” means a program in this state 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.

(5)(a) “Restraint” means the restriction of a student’s actions or movements by holding the student or using pressure or other means.

(b) “Restraint” does not include:

(A) Holding a student’s hand or arm to escort the student safely and without the use of force from one area to another;

(B) Assisting a student to complete a task if the student does not resist the physical contact; or

(C) Providing reasonable intervention with the minimal exertion of force necessary if the intervention does not include a restraint prohibited under ORS 339.288 and the intervention is necessary to:

(i) Break up a physical fight;

(ii) Interrupt a student’s impulsive behavior that threatens the student’s immediate safety, including running in front of a vehicle or climbing on unsafe structures or objects; or

(iii) Effectively protect oneself or another from an assault, injury or sexual contact with the minimum physical contact necessary for protection.

(6)(a) “Seclusion” means the involuntary confinement of a student alone in a room from which the student is physically prevented from leaving. Seclusion includes, but is not limited to, the involuntary confinement of a student alone in a room with a closed door, whether the door is locked or unlocked.

(b) “Seclusion” does not include:

(A) 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; or

(B) A student being left alone in a room with a closed door for a brief period of time if the student is left alone for a purpose that is unrelated to the student’s behavior.

(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.

(9) “Substantial physical or bodily injury” means any impairment of the physical condition of a person that requires some form of medical treatment.

(10) “Supine restraint” means a restraint in which a student is held face up on the floor.

Statutory/Other Authority: ORS. 326.051

Statutes/Other Implemented: ORS 339.285 - 339.303

History:

ODE 15-2014, f. & cert. ef. 3-4-14

ODE 13-2014, f. & cert. ef. 2-19-14

ODE 12-2012, f. 3-30-12, cert. ef. 5-1-12

581-021-0553

Use of ~~Physical~~ Restraint and Seclusion in Public Education Programs

(1)(a) The use of the following types of restraint on a student in a public education program is prohibited:

(A) Chemical restraint;

(B) Mechanical restraint;

(C) Prone restraint;

(D) Supine restraint;

(E)(i) Any restraint that involves the intentional and nonincidental use of a solid object, including a wall or the floor, to impede a student’s movement, unless the restraint is necessary to prevent an imminent life-threatening injury or to gain control of a weapon;

(ii) Notwithstanding paragraph (a)(E)(i) of this subsection, the use of a solid object, including a piece of furniture, a wall, or the floor, by public education program personnel performing a restraint is not prohibited if the object is used for the personnel’s own stability or support while performing the restraint and not as a mechanism to apply pressure directly to the student’s body;

(F)(i) Any restraint that places, or creates a risk of placing, pressure on a student’s mouth, neck or throat, or that impedes, or creates a risk of impeding, a student’s breathing;

(ii) Notwithstanding paragraph (a)(F)(i) of this subsection, a restraint that places, or creates a risk of placing, pressure on a student's mouth may be used if the restraint is necessary for the purpose of extracting a body part from a bite;

(G) Any restraint that involves the intentional placement of the hands, feet, elbow, knee or any object on a student's neck, throat, genitals or other intimate parts; and

(H) Any restraint that causes pressure to be placed, or creates a risk of causing pressure to be placed, on a student's stomach or back by a knee, foot or elbow bone.

(b) The use of any action designed for the primary purpose of inflicting pain upon a student in a public education program is prohibited.~~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.~~

~~(2b) Physical R~~Restraint or seclusion may not be used for discipline, punishment, retaliation or convenience of personnel, contractors or volunteers of ~~the~~ public education program.

(3)(a) Restraint may be used on a student in a public education program only under the following circumstances:

(A) The student's behavior imposes a reasonable risk of imminent and substantial physical or bodily injury to the student or others; and

(B) Less restrictive interventions would not be effective.

(b) Seclusion may be used on a student in a public education program only under the following circumstances:

(A) The student's behavior imposes a reasonable risk of imminent and serious bodily injury to the student or others; and

(B) Less restrictive interventions would not be effective.

(4e) If ~~physical~~ restraint or seclusion is used on a student, the ~~physical~~ restraint or seclusion must be:

(aA) Used only for as long as the student's behavior poses a reasonable ~~threat of imminent, serious bodily injury to the student or others~~ risk as described in subsection (3) of this rule;

(bB) Imposed by personnel of the public education program who are:

(A) Trained to use ~~physical~~ restraint or seclusion through programs approved by the Department of Education under OAR 581-021-0563; or

(B) 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; ~~;~~
and

(cC) Continuously monitored by personnel of the public education program for the duration of the ~~physical~~ restraint or seclusion.

(53) 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.

Statutory/Other Authority: ORS. 326.051

Statutes/Other Implemented: ORS 339.285 - 339.303

History:

ODE 15-2014, f. & cert. ef. 3-4-14

ODE 13-2014, f. & cert. ef. 2-19-14

ODE 12-2012, f. 3-30-12, cert. ef. 5-1-12

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)~~ A description of the ~~physical~~ restraint or seclusion, including:

~~(i)~~ A The date of the ~~physical~~ restraint or seclusion;

~~(ii)~~ B The times when the ~~physical~~ restraint or seclusion began and ended; and

~~(iii)~~ C The location of the ~~physical~~ restraint or seclusion~~;~~

~~(B)~~ D A description of the student's activity that prompted the use of ~~physical~~ restraint or seclusion~~;~~

~~(C)~~ E The efforts used to de-escalate the situation and the alternatives to ~~physical~~ restraint or seclusion that were attempted~~;~~

~~(D)~~ F The names of the personnel of the public education program who administered the ~~physical~~ restraint or seclusion~~;~~

~~(E)~~ 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 under subsection (3) of this rule; ~~and;~~

~~(C)~~ 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 or, if the public education program is a Youth Corrections Education Program provider under contract with the department, a Juvenile Detention Education Program provider under contract with the department, or a program that receives moneys pursuant to ORS

343.243, the person who oversees the administration of the program, 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 to the Department of Human Services ~~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 to the following individuals within 24 hours of the incident:

(a) ~~to~~ the district superintendent and, if applicable, the union representative for the affected party; -or,

(b) ~~if~~ the public education program is a Youth Corrections Education Program provider under contract with the department, a Juvenile Detention Education Program provider under contract with the department, or a program that receives moneys pursuant to ORS 343.243, the person who oversees the administration of the program, 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) Pursuant to ORS 161.205 and 339.250, 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 ~~ORS 339.285 to 339.303~~ Section 3, chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939) and OAR 581-021-0553.

(10) District school boards shall adopt written policies to implement ~~Physical R~~restraint ~~and~~& ~~S~~seclusion procedures consistent with and as indicated in ~~ORS 339.285 to 339.303~~ 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 of those policies.

Statutory/Other Authority: ORS. 326.051

Statutes/Other Implemented: ORS 339.285 - 339.303

History:

ODE 11-2019, amend filed 03/25/2019, effective 03/25/2019

ODE 15-2014, f. & cert. ef. 3-4-14

ODE 13-2014, f. & cert. ef. 2-19-14

ODE 12-2012, f. 3-30-12, cert. ef. 5-1-12

581-021-0559 (REPEALED)

~~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.~~

~~**Statutory/Other Authority:** 326.051~~

~~**Statutes/Other Implemented:** 2011 OL Ch. 665 (Enrolled HB 2939)~~

~~**History:**~~

~~ODE 15-2014, f. & cert. ef. 3-4-14~~

~~ODE 13-2014, f. & cert. ef. 2-19-14~~

~~ODE 12-2012, f. 3-30-12, cert. ef. 5-1-12~~

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 program materials that meet the expectations of subsection (1) of this rule in writing to the Oregon Department of Education ~~that meets the expectations subsection (1) of this rule.~~

(3) ~~Approved~~ 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 Oregon Department of Education~~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.

Statutory/Other Authority: ORS. 326.051

Statutes/Other Implemented: ORS 339.285 - 339.303

History:

ODE 15-2014, f. & cert. ef. 3-4-14

ODE 13-2014, f. & cert. ef. 2-19-14

ODE 12-2012, f. 3-30-12, cert. ef. 5-1-12

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.

Statutory/Other Authority: ORS. 326.051

Statutes/Other Implemented: ORS 339.285 - 339.303

History:

ODE 15-2014, f. & cert. ef. 3-4-14

ODE 13-2014, f. & cert. ef. 2-19-14

ODE 12-2012, f. 3-30-12, cert. ef. 5-1-12

581-022-2267

Annual Report on use of Restraint and Seclusion

(1) Each entity that has jurisdiction over a public education program must prepare and submit an annual report detailing the use of restraint and seclusion for the preceding school year to the Oregon Department of Education. The annual report shall include, at a minimum:

(a) The total number of incidents involving restraint;

(b) The total number of students placed in restraint;

(c) The total number of incidents involving seclusion;

(d) The total number of students placed in seclusion;

(e) The total number of seclusions in a locked room;

(f) The total number of seclusion rooms available, including a description of the dimensions and design of the rooms;

(g) The total number of incidents that resulted in injuries or death to students or personnel as a result of the use of restraint or seclusion;

(h) The number of students who were placed in 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 restraint and seclusion for each student;

(i) The number of incidents in which the personnel of the public education program administering restraint or seclusion were not trained; and

(j) The demographic characteristics of all students upon whom 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)(a) Each entity that has jurisdiction over a public education program shall make its annual report about 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; and

(D) If the entity is a public charter school, the sponsor of the public charter school.

(b) Parents and guardians of students in a public education program shall be advised at least once each school year about how to access the report.

Statutory/Other Authority: ORS. 326.051

Statutes/Other Implemented: ORS 339.285 - 339.303

Enrolled Senate Bill 963

Sponsored by Senator GELSER, Representatives CLEM, MCLAIN, HELT, SALINAS, SMITH G; Senators FREDERICK, HEARD, KNOPP, TAYLOR, THATCHER, THOMSEN, WAGNER, Representatives BONHAM, BOSHART DAVIS, DOHERTY, EVANS, GOMBERG, HERNANDEZ, HOLVEY, KENY-GUYER, MARSH, MCKEOWN, NATHANSON, NERON, RAYFIELD, REARDON, SCHOUTEN, SOLLMAN, WILDE, WILLIAMS, WILLIAMSON (at the request of Oregon Education Association, Disability Rights Oregon)

CHAPTER

AN ACT

Relating to safe classrooms; amending ORS 161.205, 339.250, 339.285, 339.288, 339.291, 339.294, 339.297 and 339.300; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 339.285 is amended to read:

339.285. As used in ORS 339.285 to 339.303:

[(1)(a) *“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.*]

[(b)(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.*]

[(2)] (1) **“Public education program” means a program in this state 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.

(2)(a) “Restraint” means the restriction of a student’s actions or movements by holding the student or using pressure or other means.

(b) “Restraint” does not include:

(A) Holding a student’s hand or arm to escort the student safely and without the use of force from one area to another;

(B) Assisting a student to complete a task if the student does not resist the physical contact; or

(C) Providing reasonable intervention with the minimal exertion of force necessary if the intervention does not include a restraint prohibited under ORS 339.288 and the intervention is necessary to:

- (i) Break up a physical fight;**

(ii) **Interrupt a student's impulsive behavior that threatens the student's immediate safety, including running in front of a vehicle or climbing on unsafe structures or objects; or**

(iii) **Effectively protect oneself or another from an assault, injury or sexual contact with the minimum physical contact necessary for protection.**

(3)(a) "Seclusion" means the involuntary confinement of a student alone in a room from which the student is physically prevented from leaving.

(b) "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.

(4) "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.

SECTION 2. ORS 339.288 is amended to read:

339.288. [(1) *The use of a mechanical restraint, chemical 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.*]

(1) The use of the following types of restraint on a student in a public education program is prohibited:

(a) Chemical restraint.

(b) Mechanical restraint.

(c) Prone restraint.

(d) Supine restraint.

(e) Any restraint that involves the intentional and nonincidental use of a solid object, including a wall or the floor, to impede a student's movement, unless the restraint is necessary to prevent an imminent life-threatening injury or to gain control of a weapon.

(f) Any restraint that places, or creates a risk of placing, pressure on a student's neck or throat.

(g) Any restraint that places, or creates a risk of placing, pressure on a student's mouth, unless the restraint is necessary for the purpose of extracting a body part from a bite.

(h) Any restraint that impedes, or creates a risk of impeding, breathing.

(i) Any restraint that involves the intentional placement of the hands, feet, elbow, knee or any object on a student's neck, throat, genitals or other intimate parts.

(j) Any restraint that causes pressure to be placed, or creates a risk of causing pressure to be placed, on the stomach or back by a knee, foot or elbow bone.

(k) Any action designed for the primary purpose of inflicting pain.

[(3)] **(2) As used in this section:**

(a) "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; and

(B) Administered as prescribed by a licensed physician or other qualified health professional acting under the professional's scope of practice.

(b)(A) "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.

(B) "Mechanical restraint" does not include:

(i) A protective or stabilizing device ordered by a licensed physician; or

(ii) A vehicle safety restraint when used as intended during the transport of a student in a moving vehicle.

(c) "Prone restraint" means a restraint in which a student is held face down on the floor.

(d) "Supine restraint" means a restraint in which a student is held face up on the floor.

SECTION 3. ORS 339.291 is amended to read:

339.291. [(1)(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) (1) [*Physical*] Restraint or seclusion may not be used for discipline, punishment, **retaliation** or convenience of personnel, **contractors or volunteers** of [*the*] a public education program.

(2)(a) Restraint may be used on a student in a public education program only under the following circumstances:

(A) The student's behavior imposes a reasonable risk of imminent and substantial physical or bodily injury to the student or others; and

(B) Less restrictive interventions would not be effective.

(b) Seclusion may be used on a student in a public education program only under the following circumstances:

(A) The student's behavior imposes a reasonable risk of imminent and serious bodily injury to the student or others; and

(B) Less restrictive interventions would not be effective.

[(2)] **(3)** 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*] **risk as described in subsection (2) of this section;**

(b) Imposed by personnel of the public education program who are:

(A) Trained to use [*physical*] restraint or seclusion through programs described in ORS 339.300; or

(B) Otherwise available in the case of an emergency circumstance when personnel described in subparagraph (A) of this paragraph are not immediately available due to the unforeseeable nature of the emergency circumstance; and

(c) Continuously monitored by personnel of the public education program for the duration of the [*physical*] restraint or seclusion.

[(3)] **(4)** In addition to the requirements described in subsection [(2)] **(3)** of this section, 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.

SECTION 4. ORS 339.294 is amended to read:

339.294. (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) A description of the [*physical*] restraint or seclusion, including:

(i) The date of the [*physical*] restraint or seclusion;

(ii) The times when the [*physical*] restraint or seclusion began and ended; and

- (iii) The location of the *[physical]* restraint or seclusion.
- (B) A description of the student's activity that prompted the use of *[physical]* restraint or seclusion.
- (C) The efforts used to de-escalate the situation and the alternatives to *[physical]* restraint or seclusion that were attempted.
- (D) The names of the personnel of the public education program who administered the *[physical]* restraint or seclusion.
- (E) 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 under subsection (3) of this section.
- (c) Timely notification of a debriefing meeting to be held as provided by subsection (4) of this section and 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 as provided by ORS 339.300, 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) 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.
- (b) 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 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.

SECTION 5. ORS 339.297 is amended to read:

- 339.297. (1) Each entity that has jurisdiction over a public education program must prepare and submit to the [*Superintendent of Public Instruction*] **Department of Education** 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 rooms available for use by the public education program for seclusion of a student and a description of the dimensions and design of the rooms.
 - (e) The total number of students placed in *[physical]* restraint.
 - (f) The total number of students placed in 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 as provided by ORS 339.300.

(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)(a) 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 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; and

(D) If the entity is a public charter school, the sponsor of the public charter school.

(b) Parents and guardians of students in a public education program shall be advised at least once each school year about how to access the report.

(3) A public education provider that does not comply with the requirement to submit a report to the Department of Education under subsection (1) of this section or to make the report available as described in subsection (2) of this section is considered nonstandard under ORS 327.103.

SECTION 6. ORS 339.300 is amended to read:

339.300. The Department of Education shall approve training programs in *[physical]* restraint and seclusion that:

(1) Teach evidence-based techniques that are shown to be effective in the prevention and safe use of *[physical]* restraint or seclusion;

(2) Provide evidence-based skills training related to positive behavior support, conflict prevention, de-escalation and crisis response techniques; and

(3) 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.

SECTION 7. ORS 161.205 is amended to read:

161.205. The use of physical force upon another person that would otherwise constitute an offense is justifiable and not criminal under any of the following circumstances:

(1)(a) A parent, guardian or other person entrusted with the care and supervision of a minor or an incompetent person may use reasonable physical force upon such minor or incompetent person when and to the extent the person reasonably believes it necessary to maintain discipline or to promote the welfare of the minor or incompetent person.

(b) Personnel of a public education program, as that term is defined in ORS 339.285, may use reasonable physical force upon a student when and to the extent the application of force is consistent with ORS [339.291] **339.285 to 339.303**.

(2) An authorized official of a jail, prison or correctional facility may use physical force when and to the extent that the official reasonably believes it necessary to maintain order and discipline or as is authorized by law.

(3) A person responsible for the maintenance of order in a common carrier of passengers, or a person acting under the direction of the person, may use physical force when and to the extent that the person reasonably believes it necessary to maintain order, but the person may use deadly physical force only when the person reasonably believes it necessary to prevent death or serious physical injury.

(4) A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious physical self-injury may use physical force upon that person to the extent that the person reasonably believes it necessary to thwart the result.

(5) A person may use physical force upon another person in self-defense or in defending a third person, in defending property, in making an arrest or in preventing an escape, as hereafter prescribed in chapter 743, Oregon Laws 1971.

SECTION 8. ORS 339.250 is amended to read:

339.250. (1) Public school students shall comply with rules for the government of such schools, pursue the prescribed course of study, use the prescribed textbooks and submit to the teachers' authority.

(2) Each district school board shall adopt written policies for the discipline, suspension or expulsion of any refractory student. The policies:

(a) May allow discipline, suspension or expulsion for conduct that includes, but is not limited to:

- (A) Willful disobedience;
- (B) Open defiance of the authority of a school employee;
- (C) Possession or distribution of tobacco, alcohol, drugs or other controlled substances;
- (D) Use or display of profane or obscene language;
- (E) Willful damage or injury to school property;
- (F) Use of threats, intimidation, harassment or coercion against a student or a school employee;
- (G) Assault of a school employee or another student; or
- (H) Intentional attempts, by word or conduct, to place a school employee or another student in fear of imminent serious physical injury.

(b) Must 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.

(c) Must limit the use of expulsion to the following circumstances:

- (A) For conduct that poses a threat to the health or safety of students or 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 paragraph (c) of this subsection, for a student who is in fifth grade or lower, must limit the use of out-of-school suspension or of expulsion to the following circumstances:

- (A) For nonaccidental 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.

(e) When an out-of-school suspension is imposed as provided under paragraph (d) of this subsection, must require the school district 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.

(f) Must be limited so that:

- (A) The duration of an expulsion may not be more than one calendar year.
- (B) The duration of a suspension may not be more than 10 school days.
- (g) Notwithstanding ORS 336.010, may require a student to attend school during nonschool hours as an alternative to suspension if the total number of hours does not exceed the equivalent of 10 school days.

(3) Pursuant to the policies adopted as provided by subsection (2) of this section, each school district shall develop a student handbook, code of conduct or other document that:

- (a) Defines and helps create a learning environment that students respect;
- (b) Defines acceptable norms of behavior for students and the types of behavior that are subject to discipline;
- (c) Establishes procedures to address behavior or circumstances that pose a threat to the safety of students or employees of the school;

(d) Establishes a system of consequences that are designed to correct student misconduct and promote behavior within acceptable norms; and

(e) Makes the system of consequences known to the school community through the dissemination of information to students, parents, legal guardians and school district employees.

(4) Each district school board shall adopt written policies on managing students who threaten violence or harm in public schools. The policies adopted by a district school board under this section shall include all of the following:

(a) Staff reporting methods.

(b) Provisions that allow an administrator to consider and implement any of the following options:

(A) Immediately removing from the classroom setting any student who has threatened to injure another person or to severely damage school property.

(B) Placing the student in a setting where the behavior will receive immediate attention, including, but not limited to, the office of the school principal, vice principal, assistant principal, counselor or a school psychologist licensed by the Teacher Standards and Practices Commission or the office of any licensed mental health professional.

(C) Requiring that a school obtain an evaluation of a student by a licensed mental health professional before allowing the student to return to the classroom setting. A student who is removed from the classroom setting for an evaluation may not be removed for more than 10 school days unless the administrator is able to show good cause that an evaluation could not be completed in that time period. The policy must describe the circumstances under which the district school board may enter into contracts with licensed mental health professionals to perform any evaluations required under this subparagraph.

(c) The requirement that an administrator provide to the parent or legal guardian of the student notification that describes the student's behavior and the school's response.

(d) A provision for the allocation of any funds necessary for the school district to implement the policies described in this subsection.

(5) In establishing and enforcing discipline, suspension and expulsion policies, a district school board shall ensure that the policy is designed to:

(a) Protect students and school employees from harm;

(b) Provide opportunities for students to learn from their mistakes;

(c) Foster positive learning communities;

(d) Keep students in school and attending class;

(e) Impose disciplinary sanctions without bias against students from a protected class, as defined in ORS 339.351;

(f) Implement a graduated set of age-appropriate responses to misconduct that are fair, nondiscriminatory and proportionate in relation to each student's individual conduct;

(g) Employ a range of strategies for prevention, intervention and discipline that take into account a student's developmental capacities and that are proportionate to the degree and severity of the student's misbehavior;

(h) Propose, prior to a student's expulsion or leaving school, alternative programs of instruction or instruction combined with counseling for the student that are appropriate and accessible to the student in the following circumstances:

(A) Following a second or subsequent occurrence within any three-year period of a severe disciplinary problem with the student; or

(B) When a parent or legal guardian applies for the student's exemption from compulsory attendance on a semiannual basis as provided in ORS 339.030 (2);

(i) To the extent practicable, use approaches that are shown through research to be effective in reducing student misbehavior and promoting safe and productive social behavior; and

(j) Ensure that school conduct and discipline codes comply with all state and federal laws concerning the education of students with disabilities.

(6) Except for policies adopted under subsection (7) of this section, any policies adopted under this section must provide for the dissemination of information about alternative programs of instruction or instruction combined with counseling, as described in subsection (5)(h) of this section, in writing to the student and the parent, legal guardian or person in parental relationship with the student at least once every six months, unless the information has changed because of the availability of new programs.

(7) Each district school board shall adopt a written policy involving firearms, as defined in 18 U.S.C. 921. The policy shall:

(a) Require expulsion from school for a period of not less than one year of any student who is determined to have:

(A) Brought a firearm to a school, to school property under the jurisdiction of the school district or to an activity under the jurisdiction of the school district;

(B) Possessed, concealed or used a firearm in a school, on school property under the jurisdiction of the school district or at an activity under the jurisdiction of the school district; or

(C) Brought to or possessed, concealed or used a firearm at an interscholastic activity administered by a voluntary organization.

(b) Allow exceptions:

(A) For courses, programs and activities approved by the school district that are conducted on school property, including, but not limited to, hunter safety courses, Reserve Officer Training Corps programs, firearm-related sports or firearm-related vocational courses; and

(B) Identified by and adopted by the State Board of Education by rule.

(c) Allow a superintendent of a school district to:

(A) Modify the expulsion requirement for a student on a case-by-case basis.

(B) Propose alternative programs of instruction or instruction combined with counseling for a student that are appropriate and accessible to the student. If alternative programs are appropriate for a student, the superintendent shall ensure that information about programs of instruction or instruction combined with counseling is provided in writing to the student and the parent, legal guardian or person in parental relationship with the student at least once every six months, or at any time the information changes because of the availability of new programs.

(d) Require a referral to the appropriate law enforcement agency of any student who is expelled under this subsection.

(e) Require an annual reporting to the Department of Education of the name of each school that had an expulsion under this subsection and the number of students expelled from each school.

(8) Each district school board shall adopt and disseminate written policies for the use of physical force upon a student. The policies must allow an individual who is a teacher, administrator, school employee or school volunteer to use reasonable physical force upon a student when and to the extent the application of force is consistent with ORS [339.291] **339.285 to 339.303**.

(9)(a) The authority to discipline a student does not authorize the infliction of corporal punishment. Every resolution, bylaw, rule, ordinance or other act of a district school board, a public charter school or the Department of Education that permits or authorizes the infliction of corporal punishment upon a student is void and unenforceable.

(b) As used in this subsection:

(A) "Corporal punishment" means the willful infliction of, or willfully causing the infliction of, physical pain on a student.

(B) "Corporal punishment" does not include:

(i) The use of physical force authorized by ORS 161.205 for the reasons specified therein; or

(ii) Physical pain or discomfort resulting from or caused by participation in athletic competition or other such recreational activity, voluntarily engaged in by a student.

(10) For purposes of this section, calculations of the number of school days that a student is removed from a classroom setting shall be as follows:

(a) As a half day if the student is out of school for half, or less than half, of the scheduled school day; and

(b) As a full day if the student is out of school for more than half of the scheduled school day.
SECTION 9. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect July 1, 2019.

Passed by Senate March 25, 2019

.....
Lori L. Brocker, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House May 29, 2019

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

.....
Bev Clarno, Secretary of State

NOVICE LEVEL

Learners proficient at NOVICE LOW can use the target language and cultural knowledge to...

- understand, exchange, and present basic information about highly predictable everyday topics using a variety of rehearsed or memorized words and phrases

Interpretive Mode	Interpersonal Mode	Presentational Mode
WL.NL.IL//IC/IR (Listening/Comprehension/Reading): Learners can recognize and identify a few words, signs, phrases, cognates, and simple statements from highly predictable spoken, written or signed texts on a limited range of very familiar topics in everyday contexts.	WL.NL.IS/IS/IW (Speaking/Signing/Writing): Learners can exchange basic information and express some basic needs, preferences, or feelings by using rehearsed or memorized words, phrases, simple sentences, and questions on a limited range of familiar topics in everyday contexts.	WL.NL.PS/PS/PW (Speaking/Signing/Writing): Learners can speak, sign, or write to provide information about self in everyday contexts relevant to their lives using rehearsed or memorized words and basic phrases.

Learners proficient at NOVICE MID can use the target language and cultural knowledge to...

- understand, exchange, and present basic information and short messages about very familiar topics in everyday contexts using a variety of rehearsed or memorized words, phrases, and simple sentences and questions.

Interpretive Mode	Interpersonal Mode	Presentational Mode
WL.NM.IL/IC/IR (Listening/Comprehension/Reading): Learners can identify and understand some basic information from spoken, written, or signed texts about a limited range of familiar topics in everyday contexts.	WL.NM.IS/IS/IW (Speaking/Signing/Writing): Learners can request and exchange information and express basic needs, preferences, or feelings by using a variety of rehearsed or memorized words, phrases, simple sentences, and questions on very familiar topics in everyday contexts.	WL.NM.PS/PS/PW (Speaking/Signing/Writing): Learners can speak, sign, or write to provide information about personal and very familiar topics in everyday contexts using rehearsed or memorized words, phrases, simple sentences, and questions.

Learners proficient at NOVICE HIGH can use the target language and cultural knowledge to...

- understand, exchange, and present information about familiar topics in everyday contexts using a variety of rehearsed or memorized words and phrases with some simple, original sentences and questions.

Interpretive Mode	Interpersonal Mode	Presentational Mode
<p>WL.NH.IL/IC/IR (Listening/Comprehension/Reading): Learners can identify the topic and understand some isolated facts and information from spoken, written, or signed texts about a limited range of familiar topics in everyday contexts.</p>	<p>WL.NH.IS/IS/IW (Speaking/Signing/Writing): Learners can interact with others to request and exchange information, meet basic needs, and express preferences or feelings by using a variety of rehearsed and some original, simple sentences and questions about very familiar topics in everyday contexts.</p>	<p>WL.NH.PS/PS/PW (Speaking/Signing/Writing): Learners can speak, sign, or write to provide information about familiar topics in everyday contexts using a variety of rehearsed and some original, simple sentences and questions.</p>

INTERMEDIATE LEVEL

Learners proficient at INTERMEDIATE LOW can use the target language and cultural knowledge to...

- understand, exchange, and present information to communicate about familiar topics and to meet practical needs in personal and social contexts by consistently creating simple, original sentences and questions.

Interpretive Mode	Interpersonal Mode	Presentational Mode
WL.IL.IC/IR (Listening/Comprehension/Reading): Learners can comprehend the main idea and identify some supporting information in spoken, written, and signed texts about familiar topics in personal and social contexts.	WL.IL.IS/IW (Speaking/Signing/Writing): Learners can interact with others to request and exchange information, meet basic needs, and express preferences or feelings by creating simple, original sentences and questions about familiar topics in personal and social contexts.	WL.IL.PS/PW (Speaking/Signing/Writing): Learners can speak, sign, or write to communicate information and express preferences about familiar topics in personal and social contexts by creating simple, original sentences and questions.

Learners proficient at INTERMEDIATE MID can use the target language and cultural knowledge to...

- understand, exchange, and present information to communicate about familiar topics and to meet practical needs in personal and social contexts by creating original sentences, strings of sentences, and questions.

Interpretive Mode	Interpersonal Mode	Presentational Mode
WL.IM.IC/IR (Listening/Comprehension/Reading): Learners can comprehend the main idea and extract key information in spoken, written, or signed texts about a range of familiar topics in personal and social contexts.	WL.IM.IS/IW (Speaking/Signing/Writing): Learners can interact with others to request and exchange information, meet needs, express preferences, opinions, or feelings, and provide basic advice by creating strings of original sentences, and questions on familiar and some researched topics in personal and social contexts.	WL.IM.PS/PW (Speaking/Signing/Writing): Learners can speak, sign, or write to make presentations about familiar and some researched concrete topics, express viewpoints, and tell a personal story using a series of connected sentences and questions.

Learners proficient at INTERMEDIATE HIGH can use the target language and cultural knowledge to...

- understand, exchange, and present information (often across various time frames) to communicate about a range of familiar and some concrete topics of interest by creating connected sentences and short paragraphs.
- interact with others to meet needs (sometimes with a complication) in personal and social contexts.

Interpretive Mode	Interpersonal Mode	Presentational Mode
<p>WL.IH.IL/IC/IR (Listening/Comprehension/Reading): Learners can comprehend the main message or story and a few details across various time frames in paragraph-length texts about a range of familiar topics in a variety of spoken, written, or signed contexts.</p>	<p>WL.IH.IS/IS/IW (Speaking/Signing/Writing): Learners can interact with others to exchange information and to meet needs in a variety of situations (sometimes involving a complication) by using connected discourse about a range of familiar and some concrete topics across various time frames.</p>	<p>WL.IH.PS/IS/PW (Speaking/Signing/Writing): Learners can speak, sign, or write to give detailed presentations and to narrate events with some supporting information about familiar and some researched, concrete topics using a few short paragraphs, across various time frames.</p>

ADVANCED LEVEL

Learners proficient at **ADVANCED LOW** can use the target language and cultural knowledge to...

- understand, exchange, and present information across major time frames to communicate about a range of familiar and concrete topics by using paragraph-length discourse.
- interact with others and negotiate to resolve a complication in familiar and unfamiliar contexts.

Interpretive Mode	Interpersonal Mode	Presentational Mode
WL.AL.IL/IC/IR (Listening/Comprehension/Reading): Learners can follow and understand the main story, underlying message, and some supporting details from a variety of familiar and general interest topics across major time frames from spoken, signed, or written texts.	WL. AL.IS/IS/IW (Speaking/Signing/Writing): Learners can maintain conversations, exchange information, provide explanation, and make comparisons across major time frames about familiar and concrete, academic and social topics using paragraph-length discourse. Learners can negotiate and resolve an unexpected complication that arises in familiar situations.	WL.AL.PS/PS/PW (Speaking/Signing/Writing): Learners can speak, sign or write to give detailed presentations, narrate events, and state viewpoints with supporting evidence about personal experiences, community events, some academic, concrete, and professional topics of interest using paragraph-length discourse across major time frames.

Learners proficient at **ADVANCED MID** can use the target language and cultural knowledge to...

- understand, exchange, and present information across major time frames to communicate about a wide variety of familiar and unfamiliar general interest topics by using organized, paragraph-length discourse.
- interact with others and negotiate to resolve a complication in familiar and unfamiliar contexts by providing detailed explanations and a variety of solutions.

Interpretive Mode	Interpersonal Mode	Presentational Mode
WL.AM.IL/IC/IR (Listening/Comprehension/Reading): Learners can follow and understand the main story, underlying message, and most supporting details from a	WL. AM.IS/IS/IW (Speaking/Signing/Writing): Learners can maintain extended conversations and discussions, provide detailed explanations, make comparisons, express advice	WL. AM.PS/PS/PW (Speaking/Signing/Writing): Learners can speak, sign or write to give detailed presentations, narrate events, and present arguments, with supporting

Interpretive Mode	Interpersonal Mode	Presentational Mode
variety of familiar and general interest topics across major time frames from spoken, signed, or written texts.	and emotions across major time frames about familiar and unfamiliar concrete, academic and social topics using paragraph-length discourse. Learners can negotiate and resolve an unexpected complication that arises in familiar situations by providing detailed explanations and a variety of solutions.	evidence about personal experience, community events, academic, concrete, and professional topics of interest using organized, paragraph-length discourse across major time frames.

Learners proficient at ADVANCED HIGH can use the target language and cultural knowledge to...

- interpret, discuss and give detailed presentations with elaboration across major time frames to communicate about a wide variety of unfamiliar complex concrete topics and some abstract general interest topics by using organized, paragraph-length discourse.
- interact with others and negotiate to resolve an unexpected complication in unfamiliar contexts that often address hypothetical issues.

Interpretive Mode	Interpersonal Mode	Presentational Mode
WL.AH.IL/IC/IR (Listening/Comprehension/Reading): Learners can follow the flow of ideas, understand different viewpoints, recognize nuances, and infer meaning from complex language on unfamiliar abstract topics across major time frames from spoken, signed, or written texts.	WL. AH.IS/IS/IW (Speaking/Signing/Writing): Learners can discuss, support and sometimes debate, a variety of complex concrete topics and some abstract academic, social and professional topics that often address hypothetical issues using paragraph-length discourse across major time frames. Learners can negotiate to meet needs in situations that are unfamiliar.	WL. AH.PS/PS/PW (Speaking/Signing/Writing): Learners can speak, sign or write to clearly and accurately give cohesive presentations and complex detailed narrations, beyond concrete topics often addressing abstract experiences or hypothetical issues using organized paragraph-length discourse across major time frames.

Oregon State Board of Education

October 17, 2019

AGENDA ITEM: 6.B

<p>SUBJECT: World Language Content Standards Adoption OAR-581-022-2030 STAFF NAME & OFFICE: Alexa Pearson, Standards and Instruction Team</p> <p>A committee of K-12 educators, administrators, and post-secondary faculty convened to review and revise current Oregon State Standards for World Language; in accordance with ORS 329.045 and OAR 581-022-2030 ODE is submitting these revised World Language standards to the Board for adoption.</p> <p><input type="checkbox"/> New Rule <input type="checkbox"/> Amend Existing Rule <input type="checkbox"/> Repeal Rule</p>	<p><input type="checkbox"/> First Reading <input type="checkbox"/> Presentation <input type="checkbox"/> No Presentation</p> <p><input checked="" type="checkbox"/> Action <input type="checkbox"/> Temp Rule <input type="checkbox"/> Presentation <input type="checkbox"/> No Presentation</p>
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BACKGROUND

The Oregon Department of Education has the responsibility for revising the state’s academic content standards (ORS 329.045, OAR 581-022-2030). ORS 329.045 states, “the State Board of Education shall regularly and periodically review and revise its Common Curriculum Goals, performance indicators and diploma requirements.” Included in these Common Curriculum Goals are the standards for World Language. The State Board of Education adopted Oregon’s current World Language Academic Content Standards in December of 2010. The World Language Advisory Panel, stakeholders, and an internal ODE team have reviewed and revised these standards as scheduled, and ODE asks the State Board of Education to adopt these revised World Language Academic Content Standards. Additionally, ODE will ask the Board to adopt instructional materials that will support these standards in 2020.

1. World Language Review and Revision Process History:
 - a. The role of the World Language Advisory Panel was to review the current World Language Standards, to review and consider public comment, to address recommendations and concerns voiced during the feedback process and to come up with a final set of recommendations that have been vetted by the internal ODE group and which were presented to the State Board on June 20, 2019
 - b. The purpose of standards review, and revision is to ensure that we are offering all students access to equitable high-quality instruction across the state. Only revisions that aligned with this vision, and those that did not create misalignment across grade levels were incorporated into the revised standards draft now proposed for adoption. The review by the Advisory Panel identified and addressed areas of concern, which included:
 - i. The alignment of Oregon’s World Language Standards with National (ACTFL) Standards;
 - ii. Formatting that is more easily accessed by teachers, administrators, parents, and students;
 - iii. Changes in wording to increase clarity and consistency throughout the document;
 - iv. Reduction in the overall number of World Language Standards;
 - v. Combining Modes of Learning to reduce redundancy; and
 - vi. The addition of Advanced performance levels to better serve the needs of high performing language learners

Oregon State Board of Education

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AGENDA ITEM: 6.B

2. Stakeholder voice/input (individual and collective i.e., groups)
 - a. An internal ODE team led by Rendy Jentz, a contractor working on World Language, and supported by Mark Freed, an ODE Education Specialist, went through the revised standards, public feedback, and the revision rationales with an eye toward coherence and alignment, as well as looking from an equity lens at how the revisions reach all Oregon students. Since the first read, ODE staff has continued to provide information, as requested, and respond to surveys submitted between June 20, 2019 and September 30, 2019, leading up to the Second Reading at the October 2019 State Board meeting.
 - b. Revisions based on review of public feedback:
 - i. The draft World Language Standards were compiled and shared for public comment and feedback in a survey that was open during the month of May 2019 and remained open until September 30, 2019. Initial feedback from that survey confirmed the Advisory Panel’s decision to streamline the standards document format, make revisions to the standards statements that mirror modifications made at the national level (ACTFL Standards) and to simplify the Oregon World Language Standards Statements. Subsequent feedback resulted in one recommendation to improve the accuracy of two Benchmark Statements (described below).

SUMMARY OF PREVIOUS BOARD ACTION

1. First read of the revised World Language Standards was presented on June 20, 2019.

HAS THE RULE CHANGED SINCE LAST BOARD MEETING?

- N/A; first read—hasn’t been before board
 No; same as last month
 Yes – As follows:

Based on feedback from teachers surveyed since the first read the following changes were made:

To provide a more accurate description of expectations and improve continuity the **Novice High** Benchmark Statement was revised to read: ...understand, exchange, and present information about familiar topics in everyday events and situations using a variety of memorized words and phrases with some* simple, original sentences and questions.

*replaced “attempts at creating”

The **Intermediate Low** Benchmark Statement was revised to read: ...understand, exchange, and present information to communicate about familiar topics and to meet practical needs in personal and social contexts by consistently* creating simple, original sentences and questions.

*“consistently” was added to description

Oregon State Board of Education

October 17, 2019

AGENDA ITEM: 6.B

POLICY ISSUE OR CONCERNS

The draft World Language Academic Content Standards are proposed so as to address concerns about content gaps, equity of voice, as well as ensuring rigor and accessibility of standards for our students to be competent, successful, highly literate global citizens.

1. Board Member questions following the June 20, 2019 first-read presentation:

a. How do the World Language Standards apply to Heritage and Native speakers?

Were their opinions considered in the changes of the standards?

- i. The World Language Standards establish expectations and outline progress that students should make as they learn a World Language. Districts decide the proficiency levels required to award credit for language study. All students, whether English speakers, Native or Heritage speakers of other languages, are required to meet the same standards in their study of a World Language. Our intent is to provide all Oregon students with the opportunity to benefit from the study of a World Language.
- ii. The World Language Standards specifically support Heritage and Native speakers by removing barriers as they seek to earn credit for proficiency in their primary language.
- iii. During the review and revision process we requested feedback from the office of Equity, Diversity and Inclusion, the American Indian, Alaska Native Education Advisory Panel and the Northwest Indian Language Institute at the University of Oregon. In addition, some of the language teachers on the World Language Advisory Panel instruct/support Heritage speakers in their World Language classrooms and are Native speakers themselves
- iv. *The Oregon State Seal of Biliteracy (OSSB) is an award granted in Oregon to recognize high school students who have met all graduation requirements and have demonstrated an Intermediate High level of proficiency (or higher) in a language other than English. The OSSB was created to encourage students towards literacy, not only in English, but also to attain literacy in their heritage language and/or a World Language other than English. The process to obtain an OSSB provides multiple options for students to demonstrate their proficiency and earn recognition for their linguistic assets and academic skills as biliterate graduates.

b. If it is desired for all students to have a secondary language regardless of what Heritage language they come into, is there some sort of standard that makes sure that is the end goal?

- i. The Oregon Diploma requires three credits in either a World Language, The Arts or CTE; however, there is no standard or rule in place requiring students to become proficient in a World Language. In most school districts, students have the option to become proficient in a World Language other than English, whether it is their Heritage/Native Language or another World Language they are interested in learning to speak. College-bound students

Oregon State Board of Education

October 17, 2019

AGENDA ITEM: 6.B

are encouraged to take at least two years of a World Language as it is an admission requirement in many colleges and universities.

- ii. The requirement to take a World Language is also dependent on individual districts' requirements for the type of diploma sought by the student. In other words, although students may not be required to learn a World Language for graduation, they may be required to take one in order to earn an Honors Diploma.

EQUITY IMPACT ANALYSIS

The following questions are designed to examine how the proposed rule, policy or action systematically affect historically underserved students and/or communities.

1. Will historically underserved populations be impacted by this docket item?
 - a. The study of a World Language includes understanding the cultural products, practices and perspectives of the countries where that language is spoken. It is a source of pride and encouragement to members of historically underserved populations whose language and culture are embraced and celebrated in the study of their primary language.
 - b. World Language courses naturally lend themselves to culturally responsive instruction that empowers students intellectually, socially, emotionally, and politically by using cultural referents to impart knowledge, skills, and attitudes.
 - c. There is greater coherence and alignment between and among proficiency levels, creating more explicit opportunity for teachers to meet students where they are and grow them beyond that point
2. Examine the potential impact of the rule changes, policy, or action on historically underserved populations in Oregon. Describe this ongoing and/or foreseeable impact, using as much detail as possible.
 - a. Students who have typically been underserved will see themselves represented in the revised standards which support speaking a language other than English. World Language courses provide an opportunity for students to learn a new language and to recognize and learn about the diverse cultural characteristics of learners from historically underrepresented populations in Oregon.
 - b. The World Language Standards support students in being able to demonstrate the proficiency level achieved in their primary language.
 - c. World Language instruction supports the diverse cultural characteristics of learners as assets.
3. Explain how the rule change, policy, or action works toward the elimination of either (one or both):
 - a. the achievement gap
 - i. The Advisory Panel ensured the standards are developmentally appropriate for students and allowed students to demonstrate proficiency at various levels which supports students having a variety of ways to advance in World Language and earn high school credit.
 - b. the opportunity gap

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- i. We will ensure in words and actions that every student has access to the resources and supports they need to thrive in school. This includes providing educators with a clear set of proficiency standards in World Languages, so students have the opportunity to learn about new languages and cultures in their school. We will explicitly work toward an education system that is culturally responsive, sustaining, eliminates barriers, and is relevant to Oregon’s diverse communities

FISCAL ANALYSIS

What is the fiscal impact of the proposed rule changes to the Department of Education, school districts, education service districts or schools? Use the following suggestions as a guide:

1. How does the proposed rule fit within the budget of the agency?
 - a. The State Board is required to adopt Standards for World Languages. In order to ensure that those standards are integrated into each school district’s K-12 instructional program, the Department provides training and guidance on the new standards. The Standards and Instructional Support team does not currently have a permanent position dedicated to World Languages. In order to support districts in implementing the new standards, the Department will contract with a content expert in World Languages. This work will require state-wide travel for the World Language education specialist to provide professional development for standards
2. How does the proposed rule change impact school districts and ESDs?
 - a. School districts will need to adopt new instructional materials.
 - b. School districts and ESDs will also have to support professional development for teachers supporting standards implementation
3. How does the proposed rule change impact schools and other educational institutions?
 - a. Schools will have to implement newly adopted instructional materials.
 - b. School administrations will have to support professional development for teachers around standards implementation, instructional materials implementation, and curriculum development.

EFFECT OF A “YES” OR “NO” VOTE

The World Language Standards Adoption has already been delayed; therefore, a “no” vote would result in further a further delay and would not allow the instructional materials process to begin until the standards were adopted.

STAFF RECOMMENDATION

Approve Approve next month No recommendation at this time

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AGENDA ITEM: 6.B

Prompted by: State law changes Federal law changes other

ATTACHMENTS

Attachment 1: Proposed Standards Revisions

Oregon State Board of Education

October 17, 2019

AGENDA ITEM: 6.C

<p>SUBJECT: Student Investment Account STAFF NAME & OFFICE: Scott Nine, Education Innovation & Improvement</p> <p>Summarize the issue. Temporary rules are recommended for the early and effective administration of the Student Investment Account and to ensure districts have the information and clarity they need to plan for the use of funds without delay.</p> <p><input checked="" type="checkbox"/> New Rule <input type="checkbox"/> Amend Existing Rule <input type="checkbox"/> Repeal Rule</p>	<p><input type="checkbox"/> First Reading <input type="checkbox"/> Presentation <input type="checkbox"/> No Presentation</p> <p><input checked="" type="checkbox"/> Action <input checked="" type="checkbox"/> Temp Rule <input type="checkbox"/> Presentation <input type="checkbox"/> No Presentation</p>
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BACKGROUND

History

The Student Investment Account (SIA) was authorized in House Bill 3427 and creates a noncompetitive grant program for school districts and eligible charter schools. The grants are for specific needs including meeting students’ mental or behavioral health needs and student achievement including for specific groups of students that have historically experienced academic disparities. Grant funds must be used to: (1) increase instructional time, (2) address students’ health and safety needs, (3) reduce class sizes or staff caseloads, and (4) broaden curricular opportunities. A total distribution of \$472,740,000 is projected for the first year of the program, beginning July 1, 2020. Districts must comply with application requirements set forth in HB3427 and have a plan approved by the Oregon Department of Education to receive these grants.

Purpose

The State Board of Education is identified in the legislation as the body to set additional rules governing SIA distributions. A set of new temporary rules are needed to provide clarity for districts for planning purposes and to assist ODE with implementation efforts early in the first year. The specific temporary rules needed include:

- **Determining which extended ADMw count will be utilized.** There are at least three options for different reference points. What is proposed is to use the “May reconciliation of the State School Fund” as this is the same calculation used for Measure 98 implementation and it is a midpoint collection that is reconciled for district actuals.
- **Setting out a prudent reserve.** Given a new source of revenue and the proposed payment structure, a prudent reserve is recommended. The amount of the reserve will impact allocation projections and must be set in order to provide districts and state employees with clarity needed for early implementation.
- **Determining a minimum grant.** Sometimes referred to as “setting a floor” – HB3427 identifies the State Board as the body to determine minimum grants for smaller districts. What is proposed puts forward a minimum grant formula. Setting this formula provides for the creation of official allocation estimates for districts.

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- **Determining how grant funds initially allocated to a district or other eligible applicant are treated if they do not apply for the grant.** The recommended rule has the allocation of grant dollars revert into the fund to be distributed within the given grant award cycle. Setting this temporary rule provides for administrative clarity needed for the first year of implementation.
- **Setting percentages and timelines for payment installations.** Setting this temporary rule provides for administrative clarity for the state and districts needed for the first year of implementation, including developing template intergovernmental grant agreements.
- **Determining carry-forward and other rules on expenditures.** District planning is tied to their understanding of how ODE will treat any funds that have not been expended by June 30, 2021. This temporary rules provides needed clarity to inform current planning and provides direction for ODE management of grants and fund administration.
- **Setting minimum fund accounting practices.** This temporary rule names the responsibility from the outset that districts and other grant recipients be able to separately account for the use of any SIA funds. This is important as it ensures accounting structures will be in place for financial reporting required within HB3427.
- **Determining how to resolve administration issues not addressed.** This temporary rule allows for the Deputy Superintendent of Public Instruction to resolve any issues not addressed within the rules for SIA Distribution. This is helpful in the first year of implementation to allow for efficient decision-making within what is already set forth in HB3427 and in rule by the State Board of Education.

Discretion

For each of these rules, the board does have discretion and there are alternatives to the temporary rules being recommended.

Stakeholder voice and input

These are temporary rules. They are being put forward by Director Colt Gill with input from ODE Staff in response to significant feedback from district leaders, staff, associations, and K-12 partner that these kinds of administrative rules are needed in a timely fashion to support early implementation with community engaged rulemaking processes to follow to set permanent rules.

The impact of setting temporary rules is to support community and district planning for the first year of the SIA grant program.

SUMMARY OF PREVIOUS BOARD ACTION

The State Board has not taken prior action on these rules. The State Board did adopt some similar rules for the administration of Measure 98 (High School Success).

HAS THE RULE CHANGED SINCE LAST BOARD MEETING?

- N/A; first read—hasn't been before board
- No; same as last month
- Yes – As follows:

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POLICY ISSUE OR CONCERNS

This is a temporary rule being advanced in order to avoid creating administrative delays or confusion amongst district leaders that could inhibit effective implementation of HB3427. Administrative in nature, these rules will help shape the first year of execution in setting district allocations and managing grant awards for the explicit purpose of advancing the aims of HB3427.

EQUITY IMPACT ANALYSIS

One of the two primary aims of HB3427 is to address persistent academic disparities that reflected in the achievement gap and rooted in opportunity gaps. This is a temporary rule being advanced in order to avoid creating administrative delays or confusion amongst district leaders that could inhibit effective implementation of HB3427. Administrative in nature, these rules will help shape the first year of execution in setting district allocations and managing grant awards for the explicit purpose of advancing the aims of HB3427.

FISCAL ANALYSIS

The proposed rule fits within the budget of the agency. The most significant fiscal impact within the temporary rule proposed relates to the expenditure of funds and the allowance of some carry forward across a biennium as this will have impact for agency administrative procedures and for districts.

EFFECT OF A "YES" OR "NO" VOTE

Effect of a "Yes"

Key rules would be set for the first year of HB3427 allowing the department to communicate official calculations for district awards within the SIA program, including to small districts receiving the minimum award. Agency staff would be able to proceed with IGA development and meet goals of year one implementation efforts.

Effect of a "No"

Implementation of HB3427 would be delayed for an estimated three months until community engagement and permanent rulemaking would be completed by the State Board. This would delay payments to districts, impact their planning, and constrain first year implementation efforts.

STAFF RECOMMENDATION

Approve Approve next month No recommendation at this time
Prompted by: State law changes Federal law changes other

ATTACHMENTS

Attachment 1: SIA Temp Rules – Fund Distribution

581-014-0004

Fund Administration for Student Investment Account

- (1) For the 2019-21 biennium, the Oregon Department of Education will determine:
 - (a) The amount of grant funds from the Student Investment Account to be apportioned among eligible applicants for each year of the biennium; and
 - (b) The amount of reserve fund to be held in the Student Investment Account. The reserve fund shall be based on prudent fiscal standards that mitigate the risk of revenue fluctuations.
- (2) For purposes of establishing the amount of grant funds apportioned to eligible applicants, the Oregon Department of Education will use the most current finalized ADMw from the State School Fund from the prior year.
- (3) If a school district has an ADMw of 50 or less, it will receive an allocation based on an ADMw of 50.
- (4) If an eligible applicant does not apply for a grant from the Student Investment Account by the close of the application period, the amount of their grant funds will revert to the Student Investment Account and be reallocated within the grant award cycle. An eligible applicant that does not apply for a grant will be eligible in the next application process for the Student Investment Account.
- (5) Following approval of the grant agreement, an eligible recipient will receive payments of at least 25 percent on a quarterly basis. If adjustments to installment payments are required, a lower percentage may be used.
- (6)(a) Any allocated funds that are not used by a grant recipient by June 30, 2021 will be returned to the Student Investment Account for distribution in the next biennium.
 - (b) Notwithstanding subsection (a), a grant recipient may request an extension to spend funds until September 30, 2021. A request must be made to the Department of Education. The Department of Education may approve the request if the spending aligns to the recipient's grant agreement.
- (7) Funds received by a grant recipient under this section must be separately accounted for and must be used in accordance with the recipient's grant agreement for the Student Investment Account.
- (8) The Deputy Superintendent of Public Instruction shall resolve any issues arising from the administration of the Student Investment Account grants not specifically addressed by this rule. The Deputy Superintendent of Public Instruction's determination shall be final.

Statutory/Other Authority: Sec. 10, 11, 13 & 14, Ch. 122, OL 2019

Statutes/Other Implemented: Sec. 10, 11, 13 & 14, Ch. 122, OL 2019

Oregon State Board of Education

October 17, 2019

AGENDA ITEM: 6.D

<p>SUBJECT: Student Investment Account – Definitions for Student Groups OAR 581-014-0001 and Charter School Eligibility OAR 581-014-0007</p> <p>STAFF NAME & OFFICE: Scott Nine, Education Innovation & Improvement</p> <p>In order to create a clear financial picture for school district on their likely allocations of Student Investment Account funds the State Board must (1) define one category of student definitions and (2) identify which data collection will be used to determine charter and school district student populations. These temporary rules are necessary to determine charter school eligibility and will impact ODE calculations and administration of the Student Investment Account.</p> <p><input checked="" type="checkbox"/> New Rule <input type="checkbox"/> Amend Existing Rule <input type="checkbox"/> Repeal Rule</p>	<p><input type="checkbox"/> First Reading <input type="checkbox"/> Presentation <input type="checkbox"/> No Presentation</p> <p><input checked="" type="checkbox"/> Action <input checked="" type="checkbox"/> Temp Rule <input type="checkbox"/> Presentation <input type="checkbox"/> No Presentation</p>
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BACKGROUND

History

The Student Investment Account (SIA) was authorized in House Bill 3427 and creates a noncompetitive grant program for school districts and eligible charter schools. The grants are for specific needs including meeting students’ mental or behavioral health needs and student achievement including for specific groups of students that have historically experienced academic disparities. Grant funds must be used to: (1) increase instructional time, (2) address students’ health and safety needs, (3) reduce class sizes or staff caseloads, and (4) broaden curricular opportunities. A total distribution of \$472,740,000 is projected for the first year of the program, beginning July 1, 2020. Districts must comply with application requirements set forth in HB3427 and have a plan approved by the Oregon Department of Education to receive these grants.

Purpose

The State Board of Education is identified in the legislation as the body to set additional rules further defining “Students from racial or ethnic groups that have historically experienced academic disparities” Section 9(2)(B) and this definition is then applied in determining charter school eligibility in Section 10(1)(b)(A)(ii). A temporary rule is recommended to create clarity in the definition in order to set charter eligibility for the first year which then impacts setting overall district calculations for SIA awards.

Discretion

The board does have discretion and there are alternatives to the temporary rules being recommended.

Stakeholder voice and input

These are temporary rules. They are being put forward by Director Colt Gill with input from ODE Staff in response to significant feedback from district leaders, staff, associations, and K-12 partner that these

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AGENDA ITEM: 6.D

kinds of administrative rules are needed in a timely fashion to support early implementation with community engaged rulemaking processes to follow to set permanent rules.

The impact of setting temporary rules is to support community and district planning for the first year of the SIA grant program.

SUMMARY OF PREVIOUS BOARD ACTION

The State Board has not taken prior action on these rules. The State Board did adopt some similar rules for the administration of Measure 98 (High School Success).

HAS THE RULE CHANGED SINCE LAST BOARD MEETING?

- N/A; first read—hasn't been before board
- No; same as last month
- Yes – As follows:

POLICY ISSUE OR CONCERNS

These are temporary rules being advanced in order to avoid creating administrative delays or confusion amongst district leaders that could inhibit effective implementation of HB3427. Administrative in nature, these rules will help shape the first year of execution in setting district allocations and managing grant awards for the explicit purpose of advancing the aims of HB3427.

EQUITY IMPACT ANALYSIS

One of the two primary aims of HB3427 is to address persistent academic disparities that reflected in the achievement gap and rooted in opportunity gaps. These are temporary rules being advanced in order to avoid creating administrative delays or confusion amongst district leaders that could inhibit effective implementation of HB3427. Administrative in nature, these rules will help shape the first year of execution in setting district allocations and managing grant awards for the explicit purpose of advancing the aims of HB3427.

FISCAL ANALYSIS

The proposed rule fits within the budget of the agency. The most significant fiscal impact within the temporary rule proposed relates to the expenditure of funds and the allowance of some carry forward across a biennium as this will have impact for agency administrative procedures and for districts.

EFFECT OF A "YES" OR "NO" VOTE

Effect of a "Yes"

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This rule would give sufficient definition for a key category of charter school eligibility to apply independently for SIA funds which will then allow for completing work to develop and communicate official calculations for SIA grant awards and support the planning of districts and other eligible applicants.

Effect of a "No"

Implementation of HB3427 would be delayed for an estimated three months until community engagement and permanent rulemaking would be completed by the State Board. This could delay payments to districts, impact their planning, and constrain first year implementation efforts.

STAFF RECOMMENDATION

Approve Approve next month No recommendation at this time
Prompted by: State law changes Federal law changes other

ATTACHMENTS

Attachment 1: Proposed Temp Rule OAR 581-014-0001 Definitions –

Attachment 2: Proposed Temp Rule OAR 581-014-0007 Charter School Eligibility for Student Investment Account

581-014-0001

Definitions for Student Investment Account

The following definitions apply to OAR 581-014-0001 to 581-014-0004:

- (1) “ADMw” means the extended weighted average daily membership computed as provided in ORS 327.013(1)(c).
- (2) “Eligible Applicant” means an applicant as defined in Section 10(1), Chapter 122, Oregon Laws 2019.
- (3) “Spring Membership” means the data report that represents students attending public schools and programs on the first school day in May, as derived from the 3rd period cumulative average daily membership collection. Rules governing the Spring Membership report are contained in the most recent edition of the Oregon Student Membership Manual, published by the Oregon Department of Education.
- (4) “Students from Racial or Ethnic Groups that Have Historically Experienced Academic Disparities” means American Indian and Alaska Native students, Black and African American students, Hispanic and Latino students, and Native Hawaiian and Pacific Islander students.
- (5) “Student Investment Account” means the account as established in Section 8(1), Chapter 122, Oregon Laws 2019.
- (6) “Students with Disabilities” means a child with a disability as defined in ORS 343.035(1).

Statutory/Other Authority: Sec. 8, 9 & 10, Ch. 122, OL 2019

Statutes/Other Implemented: Sec. 8, 9 & 10, Ch. 122, OL 2019

CREATED BY EN 10-10-19

581-014-0007

Charter School Eligibility for Student Investment Account

Before each application cycle, the Department of Education will publish a list of public charter schools that meet the eligibility requirements of Section 10, Chapter 122, Oregon Laws 2019. The Department will make the determination of eligibility based on the most recent finalized Spring Membership report.

Statutory/Other Authority: Sec. 10, Ch. 122, OL 2019

Statutes/Other Implemented: Sec. 10, Ch. 122, OL 2019

Oregon State Board of Education

MEETING DATE

AGENDA ITEM:

<p>SUBJECT: Administrative Rules Update:</p> <ul style="list-style-type: none">• OAR 581-001-0110 Confidentiality and Inadmissibility of Mediation Communications and• OAR 581-001-0115 Confidentiality and Inadmissibility of Workplace Interpersonal Dispute Mediation Communications <p>STAFF NAME & OFFICE: Emily Nazarov, Office of the Director</p> <p>The Oregon Department of Education is undergoing an effort to ensure administrative rules are consistent with current laws and policies. The rules governing admissibility of statements made during mediation needs to be updated to comply with current state law.</p> <p><input type="checkbox"/> New Rule <input checked="" type="checkbox"/> Amend Existing Rule <input type="checkbox"/> Repeal Rule</p>	<p><input type="checkbox"/> First Reading <input type="checkbox"/> Presentation <input type="checkbox"/> No Presentation</p> <p><input checked="" type="checkbox"/> Action <input type="checkbox"/> Temp Rule <input checked="" type="checkbox"/> Presentation <input type="checkbox"/> No Presentation</p>
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BACKGROUND

When state agencies enter into mediation, state law governs the extent to which communications that occur during that mediation are confidential. The governing statute, ORS 36.224, directs the Attorney General to adopt model rules that provide for confidentiality of mediation communications in certain situations. The statute then states that state agencies may adopt the model rules in full.

In 2001, the State Board of Education adopted the Attorney General’s model rules for mediation confidentiality. In 2015, the Attorney General updated the model rules to reflect changes made to statute. The Department has not yet adopted the updated model rules.

The proposed rule revisions adopt the updated model rules, thus bringing the Department into compliance with current state law.

The proposed revisions are before the Board for an adoption vote. Unlike other rulemakings, this action by the Board does not require stakeholder engagement or a first read. ORS 36.224(4) states that an agency may adopt the model rules without going through the rulemaking process that is required by the Administrative Procedures Act:

(4) A state agency may adopt the model rules developed by the Attorney General under this section in their entirety without complying with the rulemaking procedures under ORS 183.335. The agency shall file notice of adoption of rules

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AGENDA ITEM:

under this subsection with the Secretary of State in the manner provided by ORS 183.355 for the filing of rules.

SUMMARY OF PREVIOUS BOARD ACTION

The State Board adopted the Attorney General’s model rules on mediation confidentiality in 2001. There has been no further action by the State Board on these rules.

HAS THE RULE CHANGED SINCE LAST BOARD MEETING?

- N/A
- No; same as last month
- Yes – As follows:

POLICY ISSUE OR CONCERNS

The Legislature directed the Attorney General to adopt model rules that provide for confidentiality of medication communications in certain situations. ORS 36.224. A state agency may choose to adopt the model rules in full. If a state agency does not adopt the model rules in full, then mediation communications are not confidential and may be admissible.

In 2001, the State Board of Education determined that it was appropriate to adopt the model rules, allowing for confidentiality in certain situations.

The proposed revisions do not change the State Board’s position on mediation confidentiality. Rather, the revisions simply update our rule to reflect changes made to the Attorney General’s model rules.

EQUITY IMPACT ANALYSIS

The proposed revisions should not adversely impact historically underserved communities.

FISCAL ANALYSIS

There is no fiscal impact.

EFFECT OF A “YES” OR “NO” VOTE

If the Board votes yes, the Department’s rules on mediation confidentiality will align to the Attorney Generals model rules and current state law.

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If the Board votes no, the Department’s rules on mediation confidentiality will not align to the Attorney Generals model rules or current state law.

STAFF RECOMMENDATION

Approve Approve next month No recommendation at this time
Prompted by: State law changes Federal law changes other

ATTACHMENTS

Attachment 1: OAR 581-001-0110 Confidentiality and Inadmissibility of Mediation Communications and OAR 581-001-0115 Confidentiality and Inadmissibility of Workplace Interpersonal Dispute Mediation Communications

581-001-0110

Mediation Confidentiality Confidentiality and Inadmissibility of Mediation Communications

Pursuant to ORS 36.224 and OAR 137-005-0050, the Oregon Department of Education adopts by reference OAR 137-005-0052 Mediation Confidentiality as promulgated by the Attorney general effective as of November 13, 2018.

~~(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.~~

~~(e) 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.]~~

Statutory/Other Authority: ORS 36.224

Statutes/Other Implemented: ORS 36.224, 36.228, 36.230 & 36.232

History:

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

581-001-0115

Confidentiality of Workplace Mediations ~~Confidentiality and Inadmissibility of Workplace Interpersonal Dispute Mediation Communications~~

Pursuant to ORS 36.224 and OAR 137-005-0050, the Oregon Department of Education adopts by reference OAR 137-005-0055 Confidentiality of Workplace Mediations as promulgated by the Attorney general effective as of November 13, 2018.

~~(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.~~

Statutory/Other Authority: ORS 36.224

Statutes/Other Implemented: ORS 36.230(4)

History:

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

Oregon State Board of Education

October 17, 2019

AGENDA ITEM: 7.A

<p>SUBJECT: CTE State Plan Performance Targets STAFF NAME & OFFICE: Jennell Ives, Laura Foley, and Jennifer Patterson</p> <p>Oregon, and specifically the Oregon State Board of Education, is required to submit the CTE State Plan to the Office of Career, Technical and Adult Education in Washington DC. As part of the Federal funding for career technical education (CTE) through Perkins V states are required to set performance targets for CTE students and engage in a 60-day public comment period. This information item provides the opportunity for the State Board of Education to engage with Oregon’s CTE Performance Targets.</p>	<p><input checked="" type="checkbox"/> Informational Presentation</p> <p><input type="checkbox"/> Written Report</p>
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BACKGROUND

The Strengthening Career and Technical Education for the 21st Century (Perkins V) was signed into law on July 31, 2018. This law amends the Carl D Perkins Act that has been in place for over a decade. Oregon is choosing to implement a year long transition plan maintaining the focus on a processes of Perkins IV during the 2019-2020 academic year. During this year we are engaging stakeholders around building our state plan and completing a required CTE needs assessment process.

The State Board of Education last approved the Oregon’s Perkins IV CTE State Plan in 2008. The purpose of this presentation is to share the CTE Performance Targets that Oregon is setting as part of our state accountability to the Office of Career, Tehcnial and Adult Education. One of the changes with the reauthorization of Perkins funding is that states no longer negotiate performance levels with the United State Department of Education, but rather we engage stakeholders to develop our own state determined levels of performance. We must include all four years of performance targets in our state plan and have a 60-day public comment period on our state determined levels.

We are presenting to the Board our State determined levels of performance for CTE students and starting our 60-day formal public comment period. The State Board does have the discretion to set our state targets.

Stakeholder Invovement

We convened a workgroup consisting of CTE Regional Coordinators, Post-secondary Administrators, Secondary Administrators, Data Specialists, State Staff from Education Service Districts, Research Offices, ODE, Colleges, School Districts, Business and Industry partners, and Career Guidance Professionals. This workgroup examined state data and made recommendations on refining our state definitions. We also gathered feedback for the workgroup from a broader range of stakeholders including secondary and postsecondary instructors, adult basic education providers, community organizations, representatives from the tribes, teachers, students, and other agencies, to help inform the decision on the secondary quality indicator.

Oregon State Board of Education

October 17, 2019

AGENDA ITEM: 7.A

SUMMARY OF PREVIOUS BOARD ACTION

The Board adopted the CTE State Plan in 2008 and has received updates on the progress of career and technical education and state investments every year since. Performance targets prior to 2020 were set in negotiation with the United State Department of Education. This is the first time that Oregon will set our own performance targets.

POLICY ISSUE OR CONCERNS

Oregon is taking advantage of the opportunity of drafting a new CTE state plan to push the rigor and relevance of CTE programs in the state and to focus on setting high expectations for the quality of CTE programs and the equitable opportunities for Oregonians. In Oregon An exciting new aspect of CTE Federal funding through Perkins is the requirement to conduct a comprehensive local needs assessment involving stakeholders in the process of identifying gaps and prioritizing spending. Oregon has a history of disaggregating our performance data which places us ahead of most of the country in implementing the new requirements of Perkins V. Education entities will be looking at student performance by demographics, special populations as defined by Perkins, and by CTE program.

SPECIAL POPULATIONS in Perkins V - individuals with disabilities; individuals from economically disadvantaged families, including low- income youth and adults; individuals preparing for non-traditional fields; single parents, including single pregnant women; out-of-workforce individuals; English learners; homeless individuals; youth who are in or have aged out of the foster care system; and youth with a parent who is a member of the armed forces and is on active duty.

The primary audience impacted by accountability performance targets are the state, and the schools and colleges offering CTE programs. Educational entities are held to the performance targets we set. If an entity receive federal funds does not meet 90% of our performance targets they must develop an improvement plan and target resources to address increasing the outcomes for our learners.

Our new definition of secondary CTE concentrator definition changes from those students completing two courses of CTE (one credit) to those students completing two credits and will reduce by half the number of students who are considered concentrators. Examining the state data we see that this reduction is fairly consistent across all disaggregated groups of students. The change in definition produces slight increases in the outcomes across all measures except for nontraditional completion, where there is a slight decrease.

The more rigorous definition of a secondary CTE concentrator will provide an opportunity to identify areas where there are gaps between students who participate in CTE (those who take one course, typically one semester) and those who are concentrators (those who earn two credits, now usually two years of CTE). The work under the CTE State Plan will be to focus on identifying gaps in participation in and benefit from CTE programs and creating systems and supports to ensure that funding and efforts are targeted at addressing equity.

Oregon State Board of Education

October 17, 2019

AGENDA ITEM: 7.A

The positive aspect of setting a more rigorous definition and targets is that Oregon signals a push to providing students with opportunities for more in-depth CTE education that business and industry is requesting. A negative aspect of this decision is that fewer high school students will be considered CTE concentrators and Oregon will need to work to ensure that our systems are accommodating equal opportunity to participate and benefit from CTE. It may be more difficult for students with disabilities or English Learners who often have other required course participation to have time in their schedules to become CTE concentrators. As we roll out our new CTE plan providing support to our local education entities to ensure that schools are building schedules and support structures to allow all students to participate in CTE and have opportunity to become a CTE concnetrator will be essential.

EQUITY IMPACT ANALYSIS

Our statewide Perkins performance targets have the opportunity to provide information to local education entities to identify gaps that may exist for our historically and currently marginalized students to engage in CTE and benefit from career education training. Currently, at the state level CTE concentrators mirror the demographic distribution of all students. We do not see a significant change in demographics of CTE concentrators when we shift to a more rigorous definition.

The change in the secondary CTE concentrator definition has the potential to make it more difficult for students with disabilities and English learners who might have scheduling conflicts with other support courses to become CTE concentrators. The state will need to ensure training and support for local education providers to create schedules and CTE courses that are accessible to all of our students particularly those who have been historically excluded from quality career education opportunities.

FISCAL ANALYSIS

There should be no additional fiscal impact other than the requirement that Oregon maintain an effective and efficient CTE data system that allows local education entities access to view and use their data to drive strategic planning.

Oregon is setting CTE performance targets for both secondary and postsecondary providers of CTE.

ATTACHMENTS

Attachment 1: Oregon's Proposed Perkins Performance Targets

Perkins V Postsecondary Performance Indicators

Placement

Under Perkins IV, placement in postsecondary education, training, military service, employment, or service programs was measured in two performance indicators: 3P1 “*Student Retention or Transfer*,” which measured the percentage of CTE concentrators who remained enrolled in either the original postsecondary institution or transferred to another two- or four-year postsecondary institution; 4P1 “*Student Placement*” captured the number of CTE completers who were placed or retained in employment, military service, or an apprenticeship program in the second quarter following postsecondary education exit. Oregon’s performance in these indicators for the past three program years is shown in Figures 1 and 2, respectively.

Figure 1: 3P1 Student Retention or Transfer

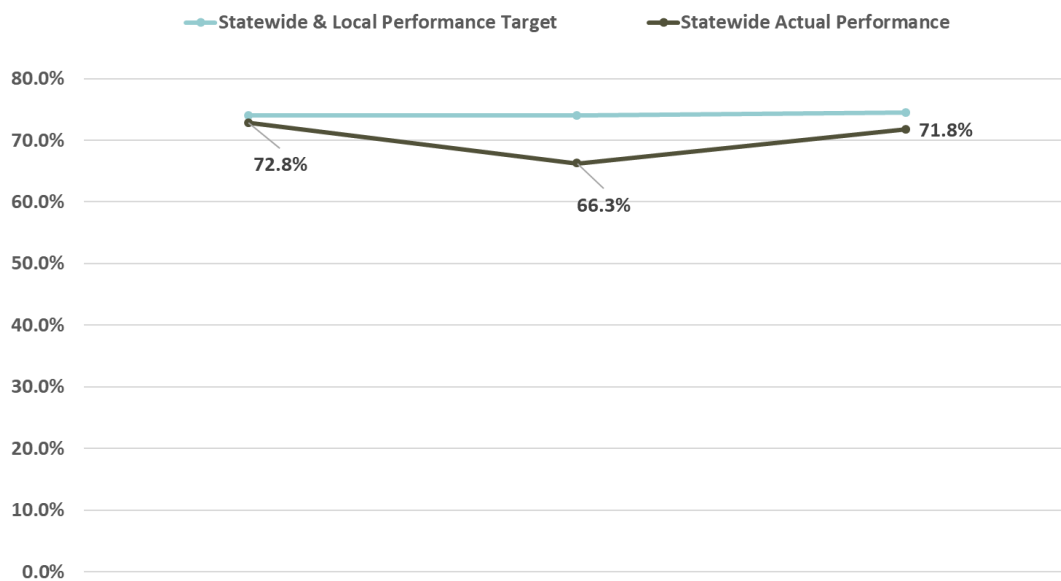
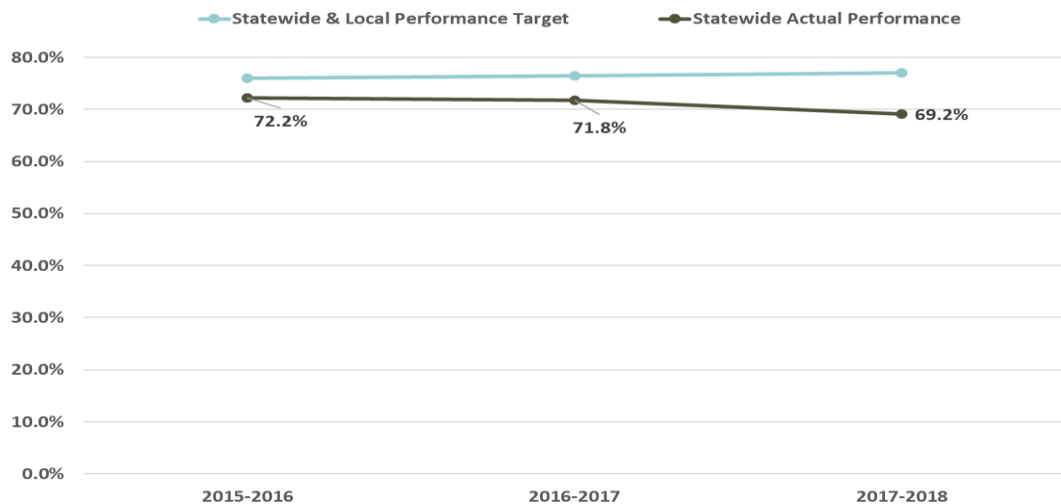


Figure 2: 4P1 Student Placement



Perkins V Postsecondary Performance Indicators

In Perkins V, these outcomes are combined and measured in the 1P1 Performance Indicator “*Postsecondary Placement*,” measuring the percent of CTE concentrators who remain enrolled in postsecondary education, are in advanced training, military service, a service or volunteer program, or are placed or retained in employment.

Numerator: # of CTE concentrators who completed a program or program of study and, at 2nd quarter after program completion, remain enrolled in postsecondary education, are in advanced training, military service, or a service program that receives assistance under title I of the National Community Service Act of 1990, are volunteers as described in section 5(a) of Peace Corps Act, or are placed or retained in employment.

Denominator: # of CTE concentrators who completed a program or program of study during the reporting year.

In analyzing the most recent data available, performance in placement outcomes for the 2016-17 CTE completers cohort would be 79.70%, using the new concentrator definition under Perkins V. Further analysis of historical data using Perkins V definitions is indicated in Table 1.

Table 1: Perkins V Analysis with Historical Perkins IV Data

	2016-17	2015-16	2014-15	3 year average
	Perkins V	Perkins V	Perkins V	
Numerator	5116	5308	5292	5239
Denominator	6419	6701	6875	6555
Performance	79.70%	79.21%	76.97%	78.60%

The recommended targets for Perkins V 1P1 “*Postsecondary Placement*” performance indicator for program years 2019-20 through 2022-23 are indicated in Table 2 and are based on preliminary results of the three year average performance using Perkins V definitions. In the 2017-18 program year, 7,814 students completed a CTE program and would, therefore, make up the denominator for 2017-18. Using the three year average for the numerator calculation, an additional 895 students would need to be placed in postsecondary, advanced training, military, service or volunteer program, or employed at the second quarter after completing the program in order to meet the proposed target for 2019-20 (78.5%). It is important to note that placement in advanced training, military service, or service or volunteer programs was not included in the preliminary analysis as these data are not readily accessible at this point in time.

Table 2: Proposed Performance Targets Under Perkins V

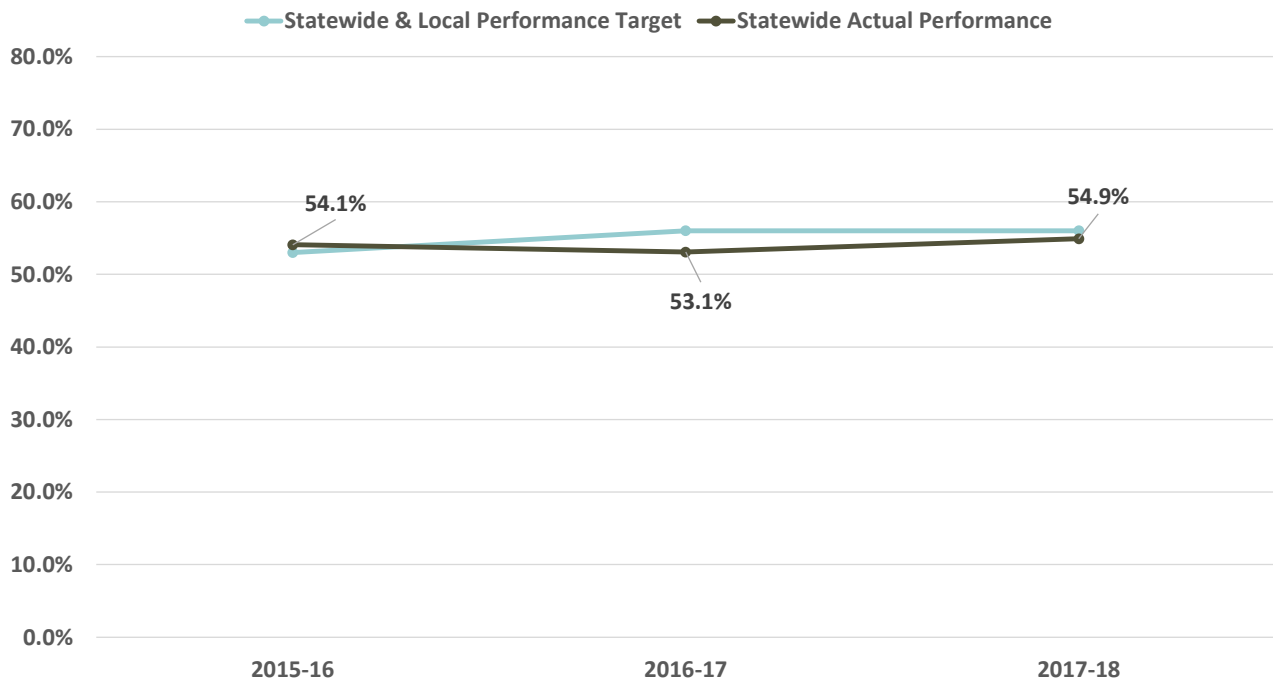
Program Year	Proposed Target
2019 – 2020	78.50%
2020 – 2021	79.00%
2021 – 2022	79.50%
2022 – 2023	80.00%

Perkins V Postsecondary Performance Indicators

Earned Recognized Postsecondary Credential

Under Perkins IV, performance in earning postsecondary credentials was measured with the 2P1 performance indicator “*Credential, Certificate, or Degree Completion.*” Oregon’s performance in this indicator for the past three program years is shown in Figure 3.

Figure 3: 2P1 Credential, Certificate, or Degree Completion



In Perkins V, this outcome is measured with the 2P1 Performance Indicator “*Earned Recognized Postsecondary Credential,*” calculating the percentage of CTE concentrators who receive a recognized postsecondary credential during participation in or within one year of program completion.

Numerator: # of CTE concentrators in the previous reporting year who completed a postsecondary program and earned a recognized postsecondary credential while participating in the program

+

of CTE concentrators in the previous reporting year who completed a postsecondary program and earned a recognized postsecondary credential within one year of program completion

Denominator: # of CTE concentrators in the previous reporting year who completed a postsecondary program

In analyzing 2017-18 federal reporting data using the new concentrator definition under Perkins V, preliminary results indicate that Oregon performance would be 34.18%. It is important to note that data and performance outcomes are not equally comparable between Perkins IV and (the projected

Perkins V Postsecondary Performance Indicators

performance under) Perkins V as the definitions of the indicator numerator and denominator, as well as the concentrator definition, have been revised. Further analysis of historical data using Perkins V definitions is indicated in Table 3.

Table 3: Perkins V Analysis with Historical Perkins IV Data

	2016-17	2015-16	2014-15	3 year average
	Perkins V	Perkins V	Perkins V	
Numerator	2,194	2,267	1,718	2060
Denominator	6,419	6,701	6,875	6665
Performance	34.18%	33.83%	24.99%	30.90%

The recommended targets for Perkins V 2P1 “*Earned Recognized Postsecondary Credential*” performance indicator for program years 2019-20 through 2022-23 are indicated in Table 4 and are based on preliminary results of the three year average performance using Perkins V definitions. In the 2017-18 program year, 7,814 students completed a CTE program and would, therefore, be included as part of the denominator for 2017-18. Using the three year average, an additional 6 students would need to earn a recognized postsecondary credential within one year of program completion in order to meet the proposed target for 2019-20 (31.00%). For context, 769 2016-17 CTE completers earned a recognized postsecondary credential within one year of program completion (by June 30, 2018); 657 2015-16 completers earned a credential within one year of program completion (by June 30, 2017).

Table 4: Proposed Performance Targets Under Perkins V

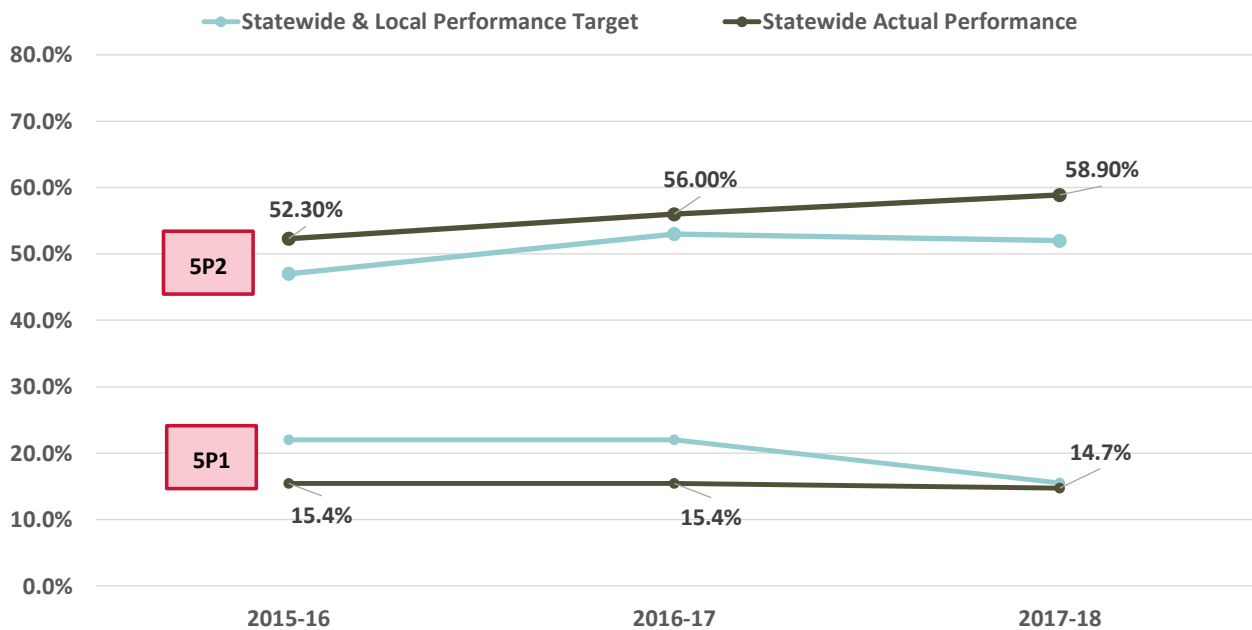
Program Year	Proposed Target
2019 – 2020	31.00%
2020 – 2021	31.50%
2021 – 2022	32.00%
2022 – 2023	32.50%

Perkins V Postsecondary Performance Indicators

Nontraditional Program Concentration

Under Perkins IV, performance in the number of CTE students from underrepresented gender groups participating in a program that led to employment in nontraditional fields was measured with the 5P1 “Non-Traditional Participation” and 5P2 “Non-Traditional Completion” performance indicators. An important distinction between these two indicators: 5P1 measured CTE participants, defined as individuals who earned one or more CTE credits in a program of study; 5P2 measured CTE concentrators who completed a program. Oregon’s performance in these indicators for the past three program years is shown in Figure 4.

Figure 4: 5P1 Nontraditional Participation and 5P2 Nontraditional Completion



In Perkins V, this outcome is measured in the 3P1 Performance Indicator “Nontraditional Program Concentration,” calculating the percentage of CTE concentrators from underrepresented gender groups who participate in career and technical programs and programs of study that lead to nontraditional fields. This revised indicator does not measure CTE “participants” or “completers” as in Perkins IV, but measures CTE concentrators as defined.

Numerator: # of CTE concentrators from underrepresented gender groups who participated in nontraditional programs

Denominator: # of CTE concentrators who participated in nontraditional programs

In analyzing 2017-18 federal reporting data using the Perkins V revised concentrator definition, preliminary results indicate that Oregon performance would be 18.62%. Unlike the other two Perkins V

Perkins V Postsecondary Performance Indicators

performance indicators, this indicator is not comparable with Perkins IV data and past performance because nontraditional concentrator involvement in CTE was not previously measured under Perkins IV. Further analysis of historical data using Perkins V definitions is indicated in Table 5.

Table 5: Perkins V Analysis with 2017-18 Perkins IV Data

	2017-18	2016-17	2015-16	3 year average
	Perkins V	Perkins V	Perkins V	
Numerator	1,752	2,482	2,749	2,328
Denominator	9,409	12,304	13,185	11,633
Performance	18.62%	20.17%	20.85%	20.01%

The recommended targets for Perkins V 3P1 “*Nontraditional Program Concentration*” performance indicator for program years 2019-20 through 2022-23 are indicated in Table 6, based on preliminary results of the three year average performance using Perkins V definitions. Using 2017-18 data, an additional 130 students from underrepresented gender groups would need to participate in nontraditional programs, assuming the number of CTE concentrators participating in nontraditional programs would remain unchanged (9,409), in order to meet the proposed target for 2019-20 (20.00%).

Table 6: Proposed Performance Targets Under Perkins V

Program Year	Proposed Target
2019 – 2020	20.00%
2020 – 2021	20.50%
2021 – 2022	21.00%
2022 – 2023	21.50%

Perkins V Secondary Performance Indicators

Overview

The Strengthening Career and Technical Education for the 21st Century Act (Perkins V) requires annual reporting of eight performance indicators at the secondary level. Five of the indicators are equivalent to what was required under Perkins IV. Extended Graduation Rate, Academic Proficiency in Science and Program Quality are new indicators under Perkins V. Technical Skill Attainment, an indicator under Perkins IV, is no longer required.

This document includes the proposed indicator targets for the next four years. Targets reflect analysis of previous data, when available, factoring in a change in the definition for a Secondary CTE Concentrator.

Secondary CTE Concentrator

The Perkins V Legislation defines a Secondary CTE Concentrator as a student who has taken at least two courses in a single CTE Program of Study. Oregon proposes the following definition.

A Secondary CTE Concentrator is a student who earns at least two credits in a single CTE Program of Study. One of those credits must be earned through a course or courses identified as intermediate or advanced.

This definition, recommended by a workgroup of employers and educators, significantly changes the student count in Perkins V as compared to Perkins IV by doubling the number of credits needed to become a concentrator from one to two. The number of Secondary CTE Concentrators using the new definition will decrease by 45 to 55 percent but will also reflect students who have greater participation in CTE.

For the last four years, the number of credits contained within a CTE Program of Study has increased. The primary driver of the trend has been the Secondary Career Pathways incentive funding. In order to receive that funding, a program must have at least three credits available to students. Programs receive funding based on the number of students who earn at least three credits. Research related to course-taking patterns in CTE demonstrates that increased CTE credits earned by students in a single program increases the likelihood of graduation and future earnings. As a result of the incentive funds, about 93% of all approved programs have at least three credits.

Course Level Descriptors

The Secondary CTE Concentrator definition includes a course-level descriptor. The descriptor emphasizes the importance of creating a course sequence within a CTE Program of Study. National research has demonstrated the positive impact of CTE on student outcomes when taught through a sequence of courses rather than a number of loosely connected electives. Under Perkins V, course-level descriptors will be:

Introductory Course - A course that focuses on career awareness and learning basic professional and technical skills associated with the CTE Program of Study. The course helps develop student interest rather than technical proficiency in a CTE Program of Study.

Perkins V Secondary Performance Indicators

Intermediate Course - A course that focuses on career exploration and learning specific technical and professional skills. The course builds on basic skills and moves toward technical proficiency in preparation for a career.

Advanced Course - A course that focuses on career preparation and refining specific technical and professional skills. The course integrates multiple skills through project-based instruction and/or work-based learning. These courses focus on preparing students for entry-level work or postsecondary programs.

Attention to Equity

Perkins V requires disaggregation of data to reveal any differential impact on a variety of student groups. Initial data analysis indicated that reducing the number of students captured in the data had no significant impact on demographic distribution. Our statewide Perkins performance targets have the opportunity to provide information to local education entities to identify gaps that may exist for our historically and currently marginalized students to engage in CTE and benefit from career education training. Currently at the state level CTE concentrators mirror the demographic distribution of all students. We do not see a significant change in demographics of CTE concentrators when we shift to a more rigorous definition.

The change in the secondary CTE concentrator definition has the potential to make it more difficult for students with disabilities and English learners who might have scheduling conflicts with other support courses to become CTE concentrators. The state will need to ensure training and support for local education providers to create schedules and CTE courses that are accessible to all of our students particularly those who have been historically excluded from quality career education opportunities.

Performance Indicators and Targets

Each of the performance indicators that follow include:

- A brief summary of the indicator;
- The data definition of the numerator and denominator used to calculate the indicator;
- The proposed targets; and
- A rationale for the chosen targets.

Perkins V Secondary Performance Indicators

1S1 Four-Year Graduation Rate

The percent of Secondary CTE Concentrators who graduate within four years. This indicator uses the same definition for a high school graduate as used to determine overall state four-year graduation rates.

Numerator: # of CTE concentrators who graduate high school (regular diploma, modified diploma or post-graduate scholars), as measured by the four-year adjusted cohort graduation rate.

Denominator: # of CTE concentrators in the state’s adjusted four-year cohort in the reporting year. The adjusted four-year cohort includes students who were first enrolled in high school four years prior to August of the reporting year plus those students who transferred into the cohort within these four years and minus those students who transferred out of the cohort within these four years.

School Year	Target
2019-2020	91.00%
2020-2021	91.50%
2021-2022	92.00%
2022-2023	92.50%

Rationale

The four-year graduation rate for CTE Concentrators has consistently exceeded the statewide average for all students. Historically, the four-year graduation rate has fluctuated, hovering around 90%. The impact of a change in the definition for a Secondary CTE Concentrator under Perkins V appears to be about a 1.5% increase. The expectation is that increases in graduation rate will slow as it approaches 100%. For these reasons the targets start near current levels with small increases each year.

Perkins V Secondary Performance Indicators

1S2 Extended Graduation Rate

The percent of Secondary CTE Concentrators who graduate within five years. This indicator uses the same definition for a high school graduate as used to determine overall state five-year graduation rates.

Numerator: # of CTE concentrators who graduated high school (regular diploma, modified diploma or post-graduate scholars), as measured by the five-year adjusted cohort graduation rate

Denominator: # of CTE concentrators in the state's adjusted five-year cohort in the reporting year. The adjusted five-year cohort includes students who were first enrolled in high school five years prior to August of the reporting year plus those students who transferred into the cohort within these five years and minus those students who transferred out of the cohort within these five years.

Proposed Targets

School Year	Target
2019-2020	92.00%
2020-2021	92.50%
2021-2022	93.00%
2022-2023	93.50%

Rationale

This is a new measure under Perkins V however; it is reported as part of the Every Student Succeeds Act (ESSA). This graduation rate for all students typically exceeds the four-year rate by about 1%. The proposed target for this indicator reflects that 1% increase.

Perkins V Secondary Performance Indicators

2S1: Academic Proficiency in Reading/Language Arts

The percent of Secondary CTE Concentrators who demonstrate proficiency in reading/language arts as measured by the statewide assessment. This data is reported in the year that the student takes the assessment. In Oregon, statewide assessments are administered during the 11th grade.

Numerator: # of CTE concentrators who have met the proficient or advanced level on Oregon's **reading/language arts** assessment administered under Section 1111(b)(3) of the Elementary and Secondary Education Act (ESEA) as amended by the No Child Left Behind Act.

Denominator: # of CTE concentrators who took the ESEA assessment in **reading/language arts**

Proposed Targets

School Year	Target
2019-2020	80.00%
2020-2021	81.00%
2021-2022	81.50%
2022-2023	82.50%

Rationale

The most recent data for this target increases by 2.5% when the new Secondary CTE Concentrator definition is applied. However, over the last three years this indicator has decreased by approximately the same amount for both CTE concentrators and the general student population. In addition, Oregon is experiencing a reduction in the number of students who take the statewide assessment. Consequently, the proposed target starts at the same level used in Perkins IV increasing by 2.5% after four years with the greatest increase happening in 2022-2023 reflecting the impact of increased overall state investments in K-12 education.

Perkins V Secondary Performance Indicators

2S2: Academic Proficiency in Mathematics

The percent of Secondary CTE Concentrators who demonstrate proficiency in mathematics as measured by the statewide assessment. This data is reported in the year that the student takes the assessment. In Oregon, statewide assessments are administered during the 11th grade.

Numerator: # of CTE concentrators who have met the proficient or advanced level on Oregon’s **mathematics** assessment administered under Section 1111(b)(3) of the Elementary and Secondary Education Act (ESEA) as amended by the No Child Left Behind Act.

Denominator: # of CTE concentrators who took the ESEA assessment in **mathematics**

Proposed Targets

School Year	Target
2019-2020	45.00%
2020-2021	46.00%
2021-2022	49.00%
2022-2023	51.00%

Rationale

The most recent data for this target increases by 2.5% when the new Secondary CTE Concentrator definition is applied. However, over the last three years this indicator has decreased significantly for Secondary CTE Concentrators and the general student population. In addition, Oregon is experiencing a reduction in the number of students who take the statewide assessment. Consequently, the proposed target starts at the same level used in Perkins IV increasing by 6.0% after four years reflecting the impact of increased overall state investments in K-12 education and a high school math initiative that promotes multiple pathways for secondary mathematics education.

Perkins V Secondary Performance Indicators

2S3: Academic Proficiency in Science

The percent of Secondary CTE Concentrators who demonstrate proficiency in science as measured by the statewide assessment. This data is reported in the year that the student takes the assessment. In Oregon, statewide assessments are administered during the 11th grade.

Numerator: of CTE concentrators who have met the proficient or advanced level on Oregon’s **science** assessment administered under Section 1111(b)(3) of the Elementary and Secondary Education Act (ESEA) as amended by the No Child Left Behind Act.

Denominator: # of CTE concentrators who took the ESEA assessment in **science**

Proposed Targets

School Year	Target
2019-2020	54.00%
2020-2021	55.00%
2021-2022	56.00%
2022-2023	57.00%

Rationale

This is a new performance indicator under Perkins V using data from a new statewide assessment. The initial target is set at a level equal to the high school performance in 2018-2019. CTE Programs of Study in clusters such as Agriculture and Health Sciences have significant connections to science content justifying proposed growth.

Perkins V Secondary Performance Indicators

3S1: Postsecondary Placement

The percentage of CTE concentrators who, in the second quarter after exiting from secondary education, are in postsecondary education or advanced training, military service or a service program, or are employed.

Numerator: # of CTE concentrators who, in the second quarter after exiting from secondary education, are in postsecondary education or advanced training, military service or a service program that receives assistance under title I of the National and Community Service Act of 1990 (42 U.S.C. 12511 et seq.), are volunteers as described in section 5(a) of the Peace Corps Act (22 U.S.C. 2504(a)), or are employed

Denominator: # of CTE concentrators who exited secondary education during the reporting year.

Proposed Targets

School Year	Target
2019-2020	60.00%
2020-2021	60.00%
2021-2022	65.00%
2022-2023	67.00%

Rationale

ODE is currently only able to collect data on education and employment for students who have exited high school. Under Perkins IV, employment data was not available but has recently become available. The proposed targets are an increase from Perkins IV since the data will include employment. Under Perkins V, ODE will explore data sources that will allow inclusion of advanced training, military service, and service programs. The changes in targets reflect two years of collecting and incorporating employment data followed by increases resulting from improved data collection and a focus on work-based learning.

Perkins V Secondary Performance Indicators

4S1: Non-traditional Program Enrollment

The percentage of CTE concentrators in career and technical education programs and programs of study that lead to fields that are non-traditional for the gender of the concentrator. These programs are identified using national data.

Numerator: # of CTE concentrators who concentrated in a state-approved program of study that leads to a non-traditional field.

Denominator: # of CTE concentrators who concentrated in a state-approved program of study

School Year	Target
2019-2020	27.50%
2020-2021	27.50%
2021-2022	28.50%
2022-2023	29.50%

Rationale

This indicator replaces two similar indicators used for Perkins IV. The previous indicators were separated by the number of CTE credits earned by students. The initial target for this measure falls between the targets for the two previous measures. The first two years are the same to reflect the time needed to adjust approaches to improvement.

Perkins V Secondary Performance Indicators

5S1: Program Quality – Participated in Work-Based Learning

The percentage of CTE concentrators graduating from high school having participated in work-based learning. Work-based learning is defined as:

Structured learning in the workplace or simulated environment that provides opportunities for sustained interactions with industry or community professionals that foster in depth firsthand experience of the expectations and application of knowledge and skills required in a given career field.

Examples include Clinical/Practicum/Internships, School Based Enterprises, Workplace Simulation/Technology-Based Learning, and Cooperative Work Experiences.

Numerator: # of CTE concentrators who participated in work –based learning during high school, and who graduated from high school during the reporting year

Denominator: # of CTE concentrators who graduated from high school during the reporting year

Proposed Targets

School Year	Target
2019-2020	25.00%
2020-2021	27.00%
2021-2022	29.00%
2022-2023	31.00%

Rationale

This is a new indicator under Perkins V. Some high schools in Oregon have been reporting data on Career Related Learning Experiences (CRLE). That data is currently not used and there is no existing technical assistance on what should be recorded. Even without that support, ODE determined that 49% of CTE concentrators were identified as having a CRLE before graduating. The initial target is set lower to reflect uncertainty in the validity of existing data. Projected increases are based on increased technical assistance on work-based learning for schools and districts.