



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, February 16, 2023

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 [Corey Rosenberg](#) at 503-947-5740, 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**
 - A. **Roll Call**
Time: 9:00 AM
 - B. **Board Member Reports**
Time: 9:05 AM
 - C. **Break**
Time: 10:05 AM
 - D. **Director's Report** **3**
Time: 10:10 AM
2. **Public Comment**
Time: 10:40 AM
 - A. The State Board of Education will accept up to 30 minutes of virtual public comment. Individuals must register to provide virtual comment. Written public comment received will be posted to BoardBook. 21
3. **Consent Agenda**
Time: 11:10 AM
 - A. Updates Involving Non-Conviction Court Orders: OAR 581-053-0050, 581-021-0510, and 581-045-0584 22
 - B. Oregon Administrative Rules Discrimination Updates 32
 - C. Senate Bill 1522 Implementation: Acceptance of Credits Earned in Educational Programs: OAR 581-021-0210 48
4. **Adoptions**
 - A. Community Informed Information Gathering Process At Kindergarten: OAR 581-022-2130 56
Time: 11:15 AM
Dan Farley and Sody Fearn, Office of Research, Assessment, Data, Reporting, and Accountability
5. **First Readings**



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A. Farm to School Education Grant Administration Update: OAR 581-017-0444 70

Time: 11:30 AM

Dustin Melton, Child Nutrition Team

B. Instructional Materials List Update - New Edition of Amplify Education's Core 76

Knowledge Language Arts (CKLA)

Time: 11:40 AM

Aujalee Moore, Tina Roberts, and Alexa Pearson, Office of Teaching, Learning, and Assessment

6. Break for Lunch

Time: 12:00 PM

7. Informational Reports

A. Online and Remote Learning Guidance 85

Time: 1:00 PM

Ken Greenbaum, Office of Teaching, Learning, and Assessment, Allie Ivey, Office of Teaching, Learning, and Assessment, and Kate Pattison, Office of the Director

8. Adjourn

Time: 1:15 PM



Oregon State Board of Education

Update

February 16, 2022

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Today...

- Division 22 PE Time Compliance Support Plan Update
- 2023 Legislative Session
- Governor's Recommended Budget
- Enrollment Update
- ODE Director Search

What: Adjusted Timelines for Compliance



Oregon Department of Education

- **Standard Timeline:** Upon a finding of deficiency, the district has until the beginning of the next school year following the date of deficiency to come back into compliance. ([ORS 327.103](#))
- **Extension (up to 12 months):** The department may allow an extension of up to 12 months if it determines that the deficiencies cannot be corrected before the beginning of the next school year.
- **Consequences of Non-Compliance:** If the deficiency is not corrected after that time period, the [deputy] superintendent of public instruction may withhold portions of the state school fund.

Why Adjust the Timeline?

Inequities in the Amount of Time Districts Have to Implement

- For 2020-21: minutes requirements waived, districts still required to offer PE all year
 - Result: a shorter implementation timeline for districts that reported out of compliance with both parts of the rule (all year + minutes), rather than just the second part (minutes).

Complexity of Corrective Action Plans

- Significant changes to school schedules, improvements to facilities, and/or adjustments to staffing assignments and FTE can take several years to implement effectively.

Corrective Action Deadline

All districts will have **up to three years** to come back into compliance, beginning with the current school year, as long as they meet certain conditions. By creating this path, ODE encourages transparency and offers districts a reasonable timeline to reach compliance with the PE minutes standard. **All districts will be required to be in compliance with this standard by the beginning of the 2025-26 school year.**

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Districts Reporting Out of Compliance for the 2021-22 SY				
Year	2022-23 SY	2023-24 SY	2024-25 SY	Fall 2025
Context	Standard Implementation Timeline: Districts must complete corrective action by the beginning of the 2023-24 school year.	Approved Extension: Districts may request up to an additional 12 months to complete corrective action.	SSF Moneys Not Withheld: ODE Director waives the withholding of portions of the state school fund for the third year of implementation under certain conditions.	Deadline for Compliance If still non-compliant, withholding of SSF would begin here
Status	Implementing Corrective Action	Conditionally Standard	Non-Standard	

How It Works:

- District's proposed corrective action plan must be approved by ODE;
- Extension requests must include a detailed progress report documenting action taken to date and an updated corrective action timeline with specific action steps;
- ODE will continue to provide technical assistance to districts.



Resources: More information: <http://bit.ly/Division22>

Compliance Timeline One-Pager

Division 22 Compliance Timeline: PE Requirements

According to [ORS 327.103](#), a district that reports out of compliance with a Division 22 Standard has until the beginning of the next school year to come back into compliance. The Department may allow an extension of up to 12 months if the ODE Director determines that the deficiencies cannot be corrected before the beginning of the next school year. If the deficiency is not corrected after that time period, the Department may withhold portions of the state school fund.

Legal Requirements

WHAT & WHY

Adjusted Timelines for Compliance

What: ODE is offering an extended timeline for implementing corrective action on the PE Requirements rule.

Why: The adjustment to the timeline was made for the following reasons:

1. **Inequities in the Amount of Time Districts Have to Implement**
 - a. For 2020-21, the specific PE minutes requirements were waived, but districts were still required to offer PE all year. This has resulted in a shorter implementation timeline for districts that reported out of compliance with both parts of the rule (all year + minutes), rather than just the second part (minutes).
 - b. ODE does not want to penalize districts that have been transparent in reporting and are making a good faith effort to come into compliance.
2. **Complexity of Corrective Action Plans**
 - a. For many districts, coming into compliance requires significant changes to school schedules, improvements to facilities, and/or adjustments to staffing assignments and FTE.
 - b. These complex corrective action plans can take several years to implement effectively.

WHEN

Corrective Action Deadline

All districts will have up to **three years** to come back into compliance, beginning with the current school year, as long as they meet certain conditions. By creating this path, ODE encourages transparency and offers districts a reasonable timeline to reach compliance with the PE minutes standard. **All districts will be required to be in compliance with this standard by the beginning of the 2025-26 school year.** See the timelines below:

Districts Reporting Out of Compliance for the 2021-22 SY				
Year	2022-23 SY	2023-24 SY	2024-25 SY	Fall 2025
Standard Implementation Timeline:	Districts must complete corrective action by the beginning of the 2023-24 school year.	Approved Extension: Districts may request up to an additional 12 months to complete corrective action.	SSF Moneys Not Withheld: ODE Director waives the withholding of portions of the state school fund for the third year of implementation under certain conditions.	Deadline for Compliance if still non-compliant, withholding of SSF would begin here
Status	Implementing Corrective Action	Conditionally Standard	Non-Standard	

PE Requirements One-Pager

Physical Education Instruction Requirements

Legal Requirements

According to [ORS 320.498](#) and [OAR 581-022-2263](#):

1. Each student in grades K-8 will receive PE instruction throughout the entire school year.
2. Districts must adhere to specific minutes requirements, as follows:

Grades K-5	150 minutes per week (120 minutes for 4 day school week)
Grades 6-8	225 minutes per week (180 minutes for 4 day school week)

Primary Grades K-5(6)

Approaches & Considerations

Best Practice

Licensed teachers with a physical education endorsement can provide as many minutes towards the requirements as possible to any class in any grade

*Districts can add to minutes taught by a licensed Physical Education teacher in the following ways:

Embedding Physical Education in the Classroom Environment

An unlimited number of minutes can be provided by a multiple subject endorsed elementary teacher to their own classroom as long as:

- Content taught is aligned to Oregon Physical Education state standards
- Minutes are consistently implemented as part of the school day schedule (Example: All K-5 classes must receive an equitable amount of time as well as an equitable amount of content)
- The curriculum is reviewed by an endorsed PE teacher

Licensed Elementary teachers that don't have a physical education endorsement, but possess a multiple subject endorsement, may provide up to 45 minutes of physical education to another class that is not their own, provided the curriculum is reviewed by an endorsed PE teacher.

Recess

A district can utilize "recess" time for physical education minutes as long as:

- the time utilized is structured
- content is taught by a licensed multiple subject endorsed elementary teacher
- content is aligned to Oregon state physical education standards
- there is equitable access for all students

*Districts should double check their Wellness, or other policies to make sure they are not utilizing required unstructured recess time for Physical Education minutes. The minutes should be identified as Physical Education Minutes in the schedule.

Beginning or End of the School Day

A district may utilize time at the beginning or end of the school day for physical education minutes as long as:

- the time utilized is structured
- content is taught by a licensed multiple subject endorsed elementary teacher
- content is aligned to Oregon state physical education standards
- there is equitable access for all students

*Note: the minutes should be identified as Physical Education Minutes in the schedule.

2023 Legislative Session

- **1/17: 2023 Legislative Session Began**
- **2/1: Governor's Recommended Budget**
- **2/22: March Revenue Forecast**
- **4/4: First Chamber Work Session Deadline**
 - This is the last day for policy committees to move measures introduced in their chamber (i.e. Senate bills in the Senate, House bills in the House) out of committee. The deadline does not apply to Ways & Means, Revenue, Rules, and other joint committees. 10
- **5/17: June Revenue Forecast**
- **5/19: Second Chamber Work Session Deadline**
 - This is the last day for policy committees to move measures introduced in their chamber (i.e. Senate bills in the Senate, House bills in the House) out of committee. The deadline does not apply to Ways & Means, Revenue, Rules, and other joint committees.
- **6/25: Constitutional Sine Die**

ODE LCs, Pending Governor-Elect Approval

- **HB 2280: Definition of Consent for School Policies**
- **HB 2281: District Appointed Civil Rights Coordinator**
- **SB 215: Technical Fix Bill**
- **HB 2275: Grant Consolidation Work**
- SB 421: Racial Equity & Youth Justice Collaborative - HB 4099 (2022) - Sen. Dembrow
- **HB 3133 & ____: PI/NH Student Success Plan - Rep. Nguyen & Gov. Kotek**
- LC 454: Refugee & Immigrant Student Success Plan - Gov. Kotek
- LC 439: School Based Mental Health Infrastructure - ODE
- LC 459: Professional Learning for Ethnic Studies and Holocaust/Genocide - Gov. Kotek
- LC 463: High School Success Updates - Gov. Kotek
- LC 436: Supporting Districts with School Safety & Emergency Management - Gov. Kotek
- LC 465: Secretary of State Systemic Risk Report Response - Gov. Kotek

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Other Education Legislation Likely to Be Discussed...

- School funding
- School accountability: Local vs. state authority
- Regulation of online schools
- Data collection: Homeschool and private school enrollment
- Early literacy
- Early learning expansion
- School board member training
- Mental health supports
- Universal meal provisions
- Greater support and accountability for serving students with disability
- Educator workforce supports
- TSPC moving to ODE
- State support for capital improvements
- Student & staff safety

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GRB In the Process...

- **Previous Steps:**
 - Development of agency current service level (CSL)
 - Development of agency policy option packages (POPs) - funding requests
 - Development of an agency recommended budget (ARB)
 - Presentations to CFO, GKB, and GTK teams
 - Receipt of Analyst Recommended budget (AnRec)
 - Agency appeal meeting and feedback
 - GTK and CFO develop GRB - ODE respond to questions
- **Current Step:**
 - GRB to be released January 31st
 - The press conference was live streamed [here](#).
 - ODE is advocating for the GRB with the Legislature.
- **Next Steps:**
 - ODE will present this budget to the Legislature's Ways & Means Subcommittee on Education.
 - 2/22: March Revenue Forecast
 - The Ways & Means Co-Chairs will release a budget framework and/or a draft budget
 - 5/17: June Revenue Forecast
 - Decisions on SSF, drawdown of reserves, and other final budget bills will be made before sine die (6/25 or earlier)
 - 7/1: ODE will have a Legislatively Adopted Budget (LAB)

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Message from the Governor...

- People living in Oregon are in great need of services - GRB maintains existing programs to the greatest extent possible and includes a renewed focus on implementation
- Budget focuses on needed services with an emphasis on the priority areas: Houselessness, behavioral health, and education
- Very few new programs approved
- Most agencies did not have any POPs (funding requests) approved
- Considered input from the RJC
- Gov. Kotek was directly involved in reviewing and making decisions in each sector, especially in the priority areas - which include ODE and all the education agencies

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Education and ODE Specific Information

The Governor's budget prioritizes investments in early learning program stability, State School Fund support, implementation of ethnic studies and social emotional learning standards, new Student Success plans for historically marginalized students, need-based financial aid for higher education, the Oregon Tribal Student Grant program, regional university support, early literacy, summer learning and enrichment programming, broadband connectivity, and additional support to ease administrative burden for K-12 grantees and rural and small schools.

Key elements of the Governor's budget include:

- Early Literacy: \$120 M
- Summer Enrichment: \$30 M
- Early Learning: \$100 M
- State School Fund: \$9.9 B
- EAC: \$10 M (one-time funds)
- Ethnic Studies: \$1.4 M
- Affinity-Based Student Success Plans: \$18 M
- OSCIM: \$160 M
- School Safety: \$3 M (reassigned carve-out)

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The ODE budget prioritizes current programs and invests in:

- The State School Fund and full funding of the High School Graduation and College and Career Readiness Fund (High School Success Fund);
- Early literacy investments to increase students' reading proficiency preschool through fifth grade, providing resources to ground instructional practices in what we know works. There are school-year and summer programming components of this;
- Summer Learning programming for the summer of 2023;
- Continued investments in the Tribal Nations Educator Collaborative grant program to support culturally responsive, anti-racist practices and policies in schools and to diversify the educator workforce;
- Expanding and enhancing various Student Success plans supporting students who have been currently and historically marginalized in the education system;
- Rural and small school technical assistance support and integrated guidance staffing to reduce administrative burden for districts;
- Implementation of standards for social-emotional learning and ethnic studies;
- A new Multilingual/Migrant Education Team;
- A new Health and Mental Health in education team;
- A new School Emergency Management technical assistance program;
- Grants management system modernization;
- Operations capacity in the School Finance Unit; and
- Capital funding to expand broadband connectivity for school districts.

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Enrollment Update

- Last week ODE published the [2022-23 Fall Membership Report](#), showing the number of K-12 students who were enrolled in Oregon public schools on October 3, 2022.
- The first school day in October is the annual date used to measure fall enrollment.
- This year's data shows a total enrollment of 552,380 students. This is an enrollment decline of 0.1% when compared to the 2021-22 school year, and represents an enrollment drop of 632 students statewide.
- The percentage of students of color continues to increase and now represents 41.0% of Oregon's K-12 student population, up from 40.3% in 2021-22.
- The number of students reported as nonbinary has also continued to increase, reaching 2,777 students this year. The state first began offering nonbinary as a gender option in the 2018-19 school year.

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Enrollment Research Brief

- Oregon public school enrollment dropped substantially during the first year of the pandemic (2020) and has continued to decline.
- Declines in enrollment are concentrated among white students and kindergarteners.
- Data indicate substantial increases in homeschooling within Oregon. Oregon does not collect data on private school enrollment.
- Some Oregon districts experienced enrollment increases during this period, largely connected to the operation of virtual schools, both existing and newly created. Over time, many of these enrollment increases were short-lived.
- Virtual programs are expanding in Oregon, in part to meet the needs of all students, yet there may be other supports or modifications that districts and schools can offer to help re-engage students.



ODE Director Search

- **Application Deadline:** March 6
- **Position Description:** The primary purpose of this position is to lead the Oregon Department of Education, performing through an equity lens many of the acts and duties of the office of Superintendent of Public Instruction as designated by the Governor. The position administers programs and funds that affect more than 570,000 K-12 Oregon students enrolled in public education. The position also provides education policy advice to the Governor. This is a highly visible, politically sensitive position that requires a great deal of energy and commitment to the reform efforts in Oregon public schools. For a full review of the position duties and details, please click [here](#).
- **Key Attributes:** Attributes are available [here](#).

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Questions?

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Feb. 13, 2023

State Board of Education
Oregon Department of Education
255 Capitol St. NE
Salem, OR 97310

Dear Board Chair Martinez Zapata and Members of the Board:

On behalf of the more than 41,000 members of the Oregon Education Association, I offer our support of the adoption of changes to OAR 581-022-2130, the Community Informed Information Gathering Process at Kindergarten Readiness Assessment rules. In addition, we urge action on a review and revision of the OARs on the definition of instructional minutes.

OEA members have long advocated for a more student-centered, equitable and developmentally appropriate approach to gathering information about incoming kindergarten students. The shift to student and family interviews centers students and their assets rather than focus on perceived deficits with the intent to “fix” students. Many OEA members who teach in early learning and in the primary grades have raised concerns about this assessment for years and we support ODE and the Department of Early Learning and Care leading this crucial pivot.

In order to further improve instruction in Oregon, we urge the State Board of Education to review and revise the Oregon Administrative Rules for the definition of instructional minutes and the required instructional minutes for each school district (OARs 581-022-0102(30)(a) and 581-022-2320, respectively). In April 2022, OEA leadership along with several local association leaders called on the State Board to review and revise these rules as part of the overall response to what we have learned during the COVID-19 pandemic. As the docket for the changes to OAR 581-022-2130 points out, currently, the interviews and home visits critical to a new approach to gather information about incoming kindergarten students will not count as instructional minutes under the narrow definitions currently are in rule. However, research has shown that home visits to incoming kindergarten students improves academic success. The rules should be revised to reflect a wider description of instructional minutes can include these kinds of high-leverage practices.

As currently written, Oregon’s instructional minutes definitions are too rigid, outdated in a post-pandemic era, and do not allow room for innovative and research-based instructional practices. Additionally, the 2019 Instructional Time Work Group, which met at the request of Gov. Kate Brown, recommended revisions to these rules four years ago. It is high time for the State Board to review these rules and their impact on creating – or hindering – implementing student-centered, equitable practices.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Reed Scott-Schwalbach". The signature is written in a cursive style with a long horizontal line extending to the right.

Reed Scott-Schwalbach
High School Spanish Teacher and OEA President

Oregon State Board of Education

February 16, 2023

AGENDA ITEM: 3.A.

<p>SUBJECT: Non-Conviction Court Orders / OAR 581-053-0050, 581-021-0510, and 581-045-0584</p> <p>STAFF NAME & OFFICE: Brock Dittus</p> <p>Proposed rule changes to account for situations in which no conviction visible to ODE’s fingerprinting team exists, but circumstances permit individuals ordered to use an ignition interlock device (IID) or required to register as a sex offender to qualify for driver approval or fingerprinting clearance to work with children in schools.</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 type="checkbox"/> Presentation <input checked="" type="checkbox"/> No Presentation</p>
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BACKGROUND

Oregon Department of Education’s Pupil Transportation & Fingerprinting Unit reviews fingerprinting background checks for all classified employees in schools, and driving histories for driver credential applications and renewals. Certain safeguards have been codified in rule to ensure that known convictions for violations of law are accounted for when determining who may be given unsupervised access to children in a school setting, or be issued a driving approval or credential when working in pupil transportation.

Individuals with a conviction for driving under the influence of intoxicants are barred from eligibility for driver approval until they are three years free from custody, probation, and parole under OAR 581-053-0050. When such a conviction and its associated custody, probation, and parole is either older than three years, or expunged from the individual’s record, they would qualify to hold a driving credential or approval. In certain circumstances, an individual charged with operating under the influence of intoxicants might be ordered by the court as part of a diversion program to use an ignition interlock device (IID), allowing them to operate a vehicle under the condition that they verify sobriety through the device installed in their vehicle. This presents challenges to a district operation, as such a modification does not meet any established pupil transportation vehicle construction standards, and could also raise questions from those involved in a community’s schools as to why someone with such a requirement is given the responsibility of transporting school pupils.

Individuals convicted of most crimes of a sexual nature are barred from employment in a school under ORS 342.143 and may not be given unsupervised access to children in a school setting. In some cases, an individual could be required to register as a sex offender even if a disqualifying crime conviction is not visible to ODE’s fingerprinting team, usually from legal action in a jurisdiction outside of Oregon. In such a case, it is possible that ODE could issue a fingerprinting clearance without knowledge of the individual’s requirement to register as a sex offender. This could raise questions from those involved in a community’s schools as to why someone with such a requirement is given unsupervised access to children.

Oregon State Board of Education

February 16, 2023

AGENDA ITEM: 3.A.

ODE’s Pupil Transportation & Fingerprinting unit observed both of the scenarios listed above in recent months, and suggested that such situations be recommended to the board for consideration and appropriate action. While the holiday season limited our ability to conduct stakeholder engagement, the ODE Rules Advisory Committee reviewed the suggested rule changes attached without objection.

It is important to acknowledge that whenever background checks and fingerprinting are introduced, concerns around equitable impact of law and its enforcement are raised. In consideration of this particular rule change, none of the details are necessarily connected to those broader concerns, though they remain important.

SUMMARY OF PREVIOUS BOARD ACTION

1. The rule changes were reviewed by the Board at the January meeting, and no questions or objections were raised.

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

No concerns have been identified around the proposed rule changes other than those described above more broadly around matters of statute.

EQUITY IMPACT ANALYSIS

No negative equity impact has been identified. The proposed changes strengthen the standards for those with access to and responsibility for Oregon’s school pupils.

FISCAL ANALYSIS

No significant fiscal impact has been identified.

EFFECT OF A “YES” OR “NO” VOTE

A “Yes” vote will approve the changes to rule, clarifying how ODE will handle fingerprinting background checks and driver credential approvals.

Oregon State Board of Education

February 16, 2023

AGENDA ITEM: 3.A.

A “No” vote will retain the current language in rule, and maintain the ability for ODE to issue credentials to individuals with the above described court orders.

STAFF RECOMMENDATION

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

ATTACHMENTS

Attachment 1: proposed changes to OAR 581-053-0050, 581-021-0510, and 581-045-0584

Oregon Department of Education

Chapter 581

Division 53

SCHOOL BUS DRIVER TRAINING, LICENSING, AND SCHOOL BUS STANDARDS

581-053-0050

Driving and Criminal Records

(1) The Oregon Department of Education shall review the driving record of each applicant for certification or approval as a school bus or school activity driver. Applicants who have held a driver license in a state other than Oregon anytime during the preceding three-year period may be required to furnish a copy of the driving record from each state in which the applicant has held a driver license to ODE. If the driver currently holds a driver license from another state, the driving record shall be printed no more than 30 days prior to the date received by ODE.

(2) ODE shall review the criminal record of each applicant for certification or approval as a school bus or school activity driver.

(3) An applicant does not qualify as a school bus or school activity driver if the applicant:

(a) Has ever been convicted of a crime listed in ORS 342.143- (Forever Crime); or,

(b) Is currently subject to mandatory registration reporting as a sex offender in this state or any other jurisdiction; or,

(c) Has ever been convicted of a crime involving violence, threat of violence or theft. This shall not apply if the applicant or driver has been free from custody, probation and parole for the preceding three-year period from date of application; or,-

(d) Has ever been convicted of a crime involving activity in drugs or alcoholic beverages. This shall not apply if the applicant or driver has been free from custody, probation, and parole for the preceding three-year period from date of application; or,-

(e) Has had his or her driving privileges suspended by any state, within the preceding three-year period, for a cause involving the unsafe operation of a motor vehicle or because of driving record.

(f) Is required to use an ignition interlock device (IID).

(g) Has been convicted within the preceding three-year period of:

(A) Driving under the influence of intoxicants, as defined in ORS 813.010;

(B) Reckless driving, as defined in ORS 811.140;

(C) Fleeing or attempting to elude a police officer, as defined in under ORS 811.540;

(D) Failure to perform the duties of a driver involved in an accident or collision which results in injury or death of any person, as described in ORS 811.705; or

(E) An equivalent out of state conviction for any of the above.

(hf) Has had his or her driving privileges revoked or suspended as a habitual offender under ORS 809.600. This shall not apply if applicant or driver has had his or her driving privileges restored under ORS 809.660 for the preceding three years;

(ig) Has a driving record for the preceding three-year period that has an accumulation of 31 or more points based upon the following point system:

(A) Each chargeable accident shall have a value of 10 points. Applicable traffic code and preventability guidelines published by the National Safety Council and the Pupil Transportation Safety Institute may be used to determine if an accident is chargeable; and

(B) Each of the traffic violations on Table 1 shall have a value of 10 points.

(C) One point shall be subtracted from the total number of points for each full month, since the last chargeable accident or conviction, to the time of driving record check; however, all subtracted points will be reinstated if any additional qualifying convictions or chargeable accidents occur within the three-year calculation period.

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

[\[ED. NOTE: To view attachments referenced in rule text, click here for PDF copy.\]](#)

Statutory/Other Authority: ORS 327.013 & 820.100 - 820.120

Statutes/Other Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

History:

ODE 40-2014, f. & cert. ef. 9-3-14

ODE 19-2012, f. & cert. ef. 6-14-12

Oregon Department of Education

Chapter 581

Division 21

SCHOOL GOVERNANCE AND STUDENT CONDUCT

581-021-0510

Fingerprinting: Definitions

As used in OAR 581-021-0510 through 581-021-0512, the following definitions apply:

(1)(a) "Conviction" means:

(A) Any adjudication in any criminal court of law, in this state or in any other jurisdiction, finding the individual committed a crime. A crime is an offense for which a sentence of imprisonment is authorized.

(B) Any adjudication in a juvenile proceeding, in this state or in any other jurisdiction, determining that the individual committed an offense, which if done by an adult, would constitute a crime listed in ORS 342.143.

(C) Any conduct which resulted in mandatory registration reporting as a sex offender in this state or any other jurisdiction or current requirement to register as a sex offender. A later court order or other action relieving the individual of the sex offender registration/reporting requirement does not affect the status of the conduct as a conviction for purposes of this rule.

(D) Any plea of guilty, no contest or nolo contendere in connection with a crime, in this state or in any other jurisdiction.

(b) Notwithstanding subsection (a) of this section, the following additional guidelines apply when determining whether a conviction exists:

(A) A conviction does not exist where a dismissal was later entered into the record in connection with a diversion or on any sort of deferred adjudication or delayed entry of judgment.

(B) A conviction does not exist where an Oregon court has expunged or otherwise removed a conviction from the record of an individual. A conviction does exist for purposes of this rule even if a crime was expunged or removed from the record of the individual under the laws of another jurisdiction if the crime would be ineligible under ORS 137.225 for expunction or removal from the record if the conviction had occurred in Oregon.

(C) A conviction does not exist where an individual was granted a full pardon by executive order of the Governor of this state. A conviction does exist for purposes of this rule even if a crime was pardoned by executive order in another jurisdiction, unless the Superintendent of Public Instruction determines that the pardon issued by the other jurisdiction is the equivalent of a full pardon by executive order in this state.

(D) Except as noted above, a conviction does not exist only where there was a judicial adjudication that the individual did not commit the offense in question, or when a conviction, adjudication or plea is

overturned by an appellate court of record and no later conviction, adjudication or plea indicating the individual committed the offense in question is on the record.

(2) “DAS” means State of Oregon, Department of Administrative Services;

(3) “Direct, unsupervised contact with students” means contact with students that provides the person opportunity and probability for personal communication or touch when not under direct supervision;

(4) “DOB” means date of birth;

(5) “FBI” means the Federal Bureau of Investigations;

(6) “Fingerprint information” means all information requested by the Oregon Department of Education for processing the fingerprint application, including the following:

(a) One properly completed fingerprint submission; and

(b) A properly completed Oregon Department of Education fingerprint based criminal history verification form.

(7) “Knowingly made a false statement” means the failure to disclose on the Oregon Department of Education fingerprint based criminal history verification form as part of the criminal records check process any of the following:

(a) A conviction of a felony;

(b) Any conviction of a misdemeanor within the previous 20 years;

(c) Any conviction of a misdemeanor that is listed in ORS 342.143 or its substantial equivalent in another jurisdiction.

(8) “LEDS” means the Law Enforcement Data System;

(9) “School District” means:

(a) A school district as defined in ORS 330.005;

(b) The Oregon School for the Deaf;

(c) An educational program under the Youth Corrections Education Program;

(d) A public charter school as defined in ORS 338.005; and

(e) An education service district.

(10) “SSF” means State School Fund;

(11)(a) “Subject individual” means:

(A) Any person hired within the last three months by a school district and not requiring licensure under ORS 342.223;

(B) Any person employed as or by a contractor into a position having direct, unsupervised contact with students and not requiring licensure under ORS 342.223;

(C) A person who is a community college faculty member providing instruction:

(i) At the site of an early childhood education program or at a school site as part of an early childhood program; or

(ii) At a kindergarten through grade 12 school site during the regular school day; and

(D) A person who is an employee of a public charter school and not requiring licensure under ORS 342.223;

(b) "Subject individual" does not include an employee hired within the last three months if the school district has on file evidence that the employee:

(A) Successfully completed a state and national criminal records check for a previous employer that was a school district or private school; and

(B) Has not resided outside the state between the two periods of employment.

Statutory/Other Authority: ORS 326.051

Statutes/Other Implemented: ORS 326.603 & ORS 326.607

History:

[ODE 22-2019, adopt filed 06/25/2019, effective 06/25/2019](#)

Oregon Department of Education

Chapter 581

Division 45

PRIVATE VOCATIONAL SCHOOLS

581-045-0584

Definitions

As used in OAR 581-045-0584 through 581-045-0587, the following definitions apply:

(1)(a) "Conviction" means:

(A) Any adjudication in any criminal court of law, in this state or in any other jurisdiction, finding the individual committed a crime. A crime is an offense for which a sentence of imprisonment is authorized.

(B) Any adjudication in a juvenile proceeding, in this state or in any other jurisdiction, determining that the individual committed an offense, which if done by an adult, would constitute a crime listed in ORS 342.143.

(C) Any conduct which resulted in mandatory registration reporting as a sex offender in this state or any other jurisdiction or current requirement to register as a sex offender. A later court order or other action relieving the individual of the sex offender registration/reporting requirement does not affect the status of the conduct as a conviction for purposes of this rule.

(D) Any plea of guilty, no contest or nolo contendere in connection with a crime, in this state or in any other jurisdiction.

(b) Notwithstanding subsection (a), the following additional guidelines apply when determining whether a conviction exists:

(A) A conviction does not exist where a dismissal was later entered into the record in connection with a diversion or on any sort of deferred adjudication or delayed entry of judgment.

(B) A conviction does not exist where an Oregon court has expunged or otherwise removed a conviction from the record of an individual. A conviction does exist for purposes of this rule even if a crime was expunged or removed from the record of the individual under the laws of another jurisdiction if the crime would be ineligible under ORS 137.225 for expunction or removal from the record if the conviction had occurred in Oregon.

(C) A conviction does not exist where an individual was granted a full pardon by executive order of the Governor of this state. A conviction does exist for purposes of this rule even if a crime was pardoned by executive order in another jurisdiction, unless the Superintendent of Public Instruction determines that the pardon issued by the other jurisdiction is the equivalent of a full pardon by executive order in this state.

(D) Except as noted above, a conviction does not exist only where there was a judicial adjudication that the individual did not commit the offense in question, or when a conviction, adjudication or plea is

overturned by an appellate court of record and no later conviction, adjudication or plea indicating the individual committed the offense in question is on the record.

(2) "DAS" means State of Oregon, Department of Administrative Services;

(3) "Direct, unsupervised contact with students" means contact with students that provides the person opportunity and probability for personal communication or touch when not under direct supervision;

(4) "DOB" means date of birth;

(5) "FBI" means the Federal Bureau of Investigations;

(6) "Fingerprint information" means all information requested by the Oregon Department of Education for processing the fingerprint application, including the following:

(a) One properly completed fingerprint submission; and

(b) A properly completed Oregon Department of Education fingerprint based criminal history verification form.

(7) "Knowingly made a false statement" means failure to disclose on the Oregon Department of Education fingerprint based criminal history verification form as part of the criminal records check process any of the following:

(a) A conviction of a felony;

(b) Any conviction of a misdemeanor within the previous 20 years;

(c) Any conviction of a misdemeanor that is listed in ORS 342.143 or its substantial equivalent in another jurisdiction.

(8) "LEDS" means the Law Enforcement Data System;

(9) "Private School" means a school that:

(a) Offers education in prekindergarten, kindergarten or grades 1 through 12, or any combination of those grade levels; and

(b) Provides instructional programs that are not limited solely to dancing, drama, music, religious or athletic instruction.

(10) "Subject individual" means:

(a) A person hired by a private school within the last three months to a position not requiring licensure under ORS 342.223; and

(b) Any person hired as or by a contractor into a position having direct, unsupervised contact with students and not requiring licensure under ORS 342.223.

DRAFT DATED 12/28/22 (KH and MM)

581-021-0045

Discrimination Prohibited

(1) For purposes of this rule and OAR 581-021-0046:

(a) “Disability” includes a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.

~~(b)~~ **(b)** “Discrimination” means any act that that unreasonably differentiates treatment, intended or unintended, or any act that is fair in form but discriminatory in operation, either of which is based on age, disability, national origin, race, color, marital status, religion, sex, sexual orientation, or gender identity;

~~(c)~~ **(c)** “District” means:

(A) A school district, an education service district, **a public charter school**, 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; and

(B) Any educational agency, program, or service under the jurisdiction of an entity described in subparagraph (A) of this paragraph.

~~(d)~~ **(d)** “National origin” includes:

(A) An individual’s or individual’s parent’s or guardian’s **actual or perceived** place of origin;

(B) Latinx/**a/o/e** and other protected class ethnicities, **including Afro-Latinx/a/o as defined in OAR 581-017-0693, Central American as defined in OAR 581-017-0693, Indigenous as defined in OAR 581-017-0693, and South American as defined in OAR 581-017-0693;**

(C) An individual’s **actual or perceived** religious or cultural ancestry that the individual associates with their personal identity;

(D) Physical characteristics that are historically associated with a place of origin, protected class ethnicity, or religious or cultural ancestry, including but not limited to individuals who identify as Syrian, Muslim, Middle Eastern, Arab, Sikh, and Jewish; and

(E)) An individual whose first spoken language is not English or who is not proficient in speaking English, or who is under the custody of a parent or guardian whose first spoken language is not English or who is not proficient in speaking English.

~~(d)~~ **(e)** “Gender identity” means an individual’s gender-related identity, appearance, expression or behavior, regardless of whether the identity, appearance, expression or behavior differs from that associated with the gender assigned to the individual at birth.

~~(e)~~ **(f)** “Protective hairstyle” means a hairstyle, hair color, or manner of wearing hair that includes, but is not limited to, locs, twists, and braids, regardless of whether the braids are created with extensions or styled with adornments.

(g) “Public Charter School” means an elementary or secondary charter school offering a comprehensive instructional program operating under a written agreement entered into between a sponsor and an applicant pursuant to ORS chapter 338.

~~(f)~~ **(h)** “Race” includes:

(A) Black, African American, American Indian, Alaska Native, Asian, Native Hawaiian, Pacific Islander, other protected races, and multiracial individuals; and

(B) Physical characteristics that are historically associated with race, ~~that includes, but is not limited to,~~ **including but not limited to** any natural hair, hair texture, hair type, or protective hairstyle associated with race.

(i) “Sex” includes male (M), female (F), and non-binary (X).

~~(g)~~ **(j)** “Sexual orientation” means an individual’s actual or perceived heterosexuality, homosexuality, or bisexuality.

(k) “Sponsor” means:

(A) The board of the common school district or the union high school district in which the public charter school is located that has developed a written charter to create a public charter school.

(B) The State Board of Education pursuant to ORS 338.075.

(2) A person in Oregon may not be subjected to discrimination in any public elementary or secondary school, educational program or service, or interschool activity where the program, service, school, or activity is financed in whole or part by monies appropriated by the Legislative Assembly.

(3) In providing programs or services to students, a district may not, on a discriminatory basis as defined in subsection (1)(a) of this rule:

- (a) Treat one person differently from another in determining whether such person satisfies any requirement of condition for the provision of such aid, benefit, or service;
- (b) Provide different aid, benefits, or services; or provide aids, benefits, or services in a different manner;
- (c) Deny any person such aid, benefit, or service;
- (d) Subject any person to separate or different rules of behavior, sanctions, or other treatment;
- (e) Aid or perpetuate discrimination by joining or remaining a member of any agency or organization which discriminates in providing any aid, benefit, or service to students or employees;
- (f) Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

(4)(a) A district must issue notice of nondiscrimination for the purpose of notifying students, staff, and third parties that the district does not discriminate on the basis of age, disability, national origin, race, color, marital status, religion, sex, sexual orientation, and gender identity.

(b) Notice of nondiscrimination as required by this subsection must:

(A) Be continuously available on the district website, accessible either by a direct link on the front page of the website or by a direct link on the footer of every page of the website.

(B) Be posted in multiple locations, including but not limited to public-facing documents such as staff and student handbooks, annual publications, official school board documents, bulletins, graduation announcements, catalogs, recruitment materials, and school related applications.

(C) Be made available in the languages of the communities served by the district.

(D) Be disseminated annually to staff, students, and families of students as an individual notice that is accessible and written in plain language.

(E) Contain:

(i) A statement of non-discrimination that specifies the basis for non-discrimination being age, disability, national origin, race, color, marital status, religion, sex, sexual orientation, and gender identity;

(ii) The contact information of staff designated to respond to questions of discrimination, including their name or title, address, email address, and telephone number; and

(iii) A link to or the web address for the district’s discrimination complaint process and procedures.

~~(4)~~ **(5)** This rule does not affect attendance boundaries, limit placement of students in programs of desegregation, nor supersede any specific statutory requirement for any educational program.

Statutory/Other Authority: ORS 326 & 659.855

Statutes/Other Implemented: ORS 326.051 & 659.850

History:

ODE 39-2021, amend filed 12/29/2021, effective 12/29/2021

ODE 11-2019, amend filed 03/25/2019, effective 03/25/2019

ODE 13-2008, f. & cert. ef. 5-23-08

1EB 11-1984, f. & ef. 4-17-84

1 EB 252, f. & ef. 9-30-76

DRAFT

581-021-0046

Program Compliance Standards

(1) The definitions in OAR 581-021-0045 apply to this rule.

~~(1)~~ **(2) Access to Course Offerings.** A ~~school~~ district shall not provide any course or otherwise carry out any of its educational programs or activities on a discriminatory basis or require or refuse participation therein by any of its students on such basis.

(a) This section does not prohibit grouping of students in any educational program or activity by ability as assessed by objective standards of individual performance.

(b) Where use of an objective standard of measuring skill or progress in an educational program has a discriminatory effect on persons as defined in OAR 581-021-0045, the district shall use appropriate standards which do not have such effect.

(c) This section does not prohibit separating students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball, soccer, and other sports the purpose or major activity of which involves bodily contact.

~~(2)~~ **(3) Employment Assistance.** A district which actively assists any agency, organization, or person in making employment available to any of its students shall assure itself that such employment is made available without discrimination.

~~(3)~~ **(4) Marital Status.** A district shall not discriminate against any student or exclude any student from its educational program or activity including any class or extracurricular activity on the basis of the student's marital status; however the student may request voluntarily to participate in a separate portion of the program or activity of the district.

~~(4)~~ **(5) Athletics.** A district which operates or sponsors interscholastic club or intramural athletics shall provide equal athletic opportunity for members of ~~both~~ all sexes, all age and ethnic groups, and persons with disabilities. In determining whether equal opportunities are available, the Superintendent of Public Instruction shall consider among other factors whether the selection of sports and levels of competition effectively accommodate the interests and abilities of all students.

~~(5)~~ **(6) Students Unable to Attend Because of Religious Beliefs.** Any student who because of his or her religious beliefs is unable to attend classes on a particular day shall be excused from attendance requirements and from any examination or other assignment on that day. The student shall make up the examination or other assignment missed because of such absence. The absence shall not be counted for the purpose of an attendance policy that may result in exclusion, failure, or reduction of grade based upon a certain number of days.

~~(6)~~ **(7)** Textbooks and Curriculum Material. Nothing in this rule shall be interpreted as requiring or prohibiting or abridging in any way the use of adopted textbook or curriculum material. However, where materials are found upon investigation to provide discriminatory impact on the basis of ~~race, color, national origin, religion, sex, sexual orientation, age, disability, or marital status,~~ **age, disability, national origin, race, color, marital status, religion, sex, sexual orientation, or gender identity,** there should be established resources for employees and students of the district for supplemental alternative nondiscriminatory material.

~~(7)~~ **(8)** Use of Appraisal and Counseling Materials. A district which uses testing or other materials for appraising or counseling students shall not use materials which discriminate on the basis of ~~race, color, national origin, religion, sex, sexual orientation, age, disability, or marital status,~~ **age, disability, national origin, race, color, marital status, religion, sex, sexual orientation, or gender identity,** or use materials which permit or require different treatment of students on such basis unless such differences cover the same occupation and interest areas and the use of such different material is shown to be essential to the elimination of discrimination. Districts shall develop and use internal procedures for insuring that such materials may not discriminate.

~~(8)~~ **(9)** Bilingual or Linguistically Different Students. Districts shall develop and implement a plan for identifying students whose primary language is other than English and shall provide such students with appropriate programs until they are able to use the English language in a manner that allows effective and relevant participation in regular classroom instruction and other educational activities.

~~(9)~~ **(10)** Equal Educational Opportunity Plans. Districts shall develop and implement a plan which assures that all students have equal opportunity to participate in the educational programs and activities and equal access to facilities in the district. Said plan shall include courses and components which provide students with an understanding of the pluralistic realities of their society, including multi-cultural/racial/ethnic education and equity in portraying all classes protected under ORS ~~659.150~~ **659.550**. Upon the request of the Superintendent of Public Instruction, districts shall submit copies of such plans and other assurances as are deemed necessary and proper.

~~(10) Dress Codes. Districts may enforce an otherwise valid dress code or policy, as long the code or policy.~~

(11) Dress Code. If a district has a formal or informal dress code policy, the policy must:

~~(a) Provides, on a case by case basis, for reasonable accommodation of an individual based on the health and safety needs of the individual; and~~

~~(b)(A) Does not have a disproportionate adverse impact on members of a protected class, including age, disability, national origin, race, color, marital status, religion, sex, sexual orientation, or gender identity, to a greater extent than the policy impacts persons generally.~~

~~(B) For purposes of this paragraph, “disproportionate adverse impact” means an impact that is not appropriate or fair in consideration of the individual’s protected class status.~~

(a) Not discriminate against members of a protected class, including age, disability, national origin, race, color, marital status, religion, sex, sexual orientation, and gender identity;

(b) Be gender-affirming, racially affirming, and culturally affirming;

(c) Provide, on a case-by-case basis, for reasonable accommodation of an individual based on the health and safety needs of the individual; and

(d) When revised, be revised with input from members of protected classes, including age, disability, national origin, race, color, marital status, religion, sex, sexual orientation, and gender identity.

~~(11)~~ **(12)** Interpretation of Rules. The Superintendent of Public Instruction may issue written interpretations concerning rules for nondiscrimination upon the written request of parties to a complaint at the district level.

Statutory/Other Authority: ORS 326 & 659.855

Statutes/Other Implemented: ORS 326.051 & 659.850

History:

ODE 39-2021, amend filed 12/29/2021, effective 12/29/2021

ODE 13-2008, f. & cert. ef. 5-23-08

1EB 11-1984, f. & ef. 4-17-84

1 EB 252, f. & ef. 9-30-76

581-022-2370

Complaint Procedures

(1) Each school district must establish a process for the prompt resolution of a complaint by:

(a) ~~a~~ **A person who resides in the district; or**

(b) ~~any~~ **Any parent or guardian of a student who attends school in the district; or**

(c) Any person who alleges that they have been subjected to discrimination, or a third party representing such persons or groups of persons.

(2) A school district's complaint procedure must:

(a) Be in writing available at the main administrative office and, if the school district has a website, in a form available on the home page of the school district's website;

(b) Include the name of the person, position, or office within the school district with the responsibility for responding to the complaint; and

(c) Specify the time period during which the complaint will be addressed and a final decision issued. If the complaint procedure has multiple steps, the procedure must establish the time period for each step as well as the overall time period for completing the complaint procedure.

(3) A school district's complaint procedure may:

(a) Distinguish between those complaints that may be appealed under OAR 581-002-0040 **and** OAR 581-002-0001 to OAR 581-002-0023, and other complaints;

(b) Offer mediation or other alternative dispute resolution processes as an option available if all parties to the complaint agree in writing to participate;

(c) Impose a time limitation for filing a complaint that is the later of either:

(A) Two years after the alleged violation or unlawful incident occurred or the complaint discovered the alleged violation or unlawful incident. For incidents that are continuing in nature, the time limitation must run from the date of the most recent incident; or

(B) One year after the affected student has graduated from, moved away from, or otherwise left the school district.

(d) Include more than one but no more than four steps for addressing the complaint.

(4) The procedure for hearing and acting on complaints alleging violation of the Oregon Administrative Rules, Chapter 581, division 22 (division 22 standards), ORS 339 to 330.303 or OAR 581-021-0550 to 581-021-0570 (Restraint and Seclusion), ORS 659.850 or OAR **581-021-0038**, 581-021-0045, 581-021-0046, 581-021-0047 (Discrimination); or ORS 659.852 (Retaliation) must include the following:

(a) The point at which the district's decision is final; and

(b) A final decision in written or electronic form that addresses each allegation in the complaint and contains reasons for the district's decision and notifies the complainant that the district's decision may be appealed to the Deputy Superintendent of Public Instruction under OAR 581—002-0023.

(5) This rule applies to appeals filed with a school district on or after January 1, 2018.

Statutory/Other Authority: ORS 326.051 & 659.855

Statutes/Other Implemented: ORS 327.103 & 659.850

History:

ODE 11-2019, amend filed 03/25/2019, effective 03/25/2019

ODE 2-2019, minor correction filed 01/08/2019, effective 01/08/2019

Renumbered from 581-022-1650 by ODE 16-2017, , f. & cert. ef. 7-5-17

ODE 9-2017, f. 6-29-17, cert. ef. 7-1-17, Renumbered from 581-022-1941

ODE 31-2007, f. & cert. ef. 12-12-07

581-002-0001

Definitions

For purposes of OAR 581-002-0001 to OAR 581-002-0023:

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

(2) "District" means:

(A) A school district, an education service district, a **public charter school**, 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; **and**

(B) Any educational agency, program, or service under the jurisdiction of an entity described in subparagraph (A) of this paragraph.

(3) "Public Charter School" means an elementary or secondary charter school offering a comprehensive instructional program operating under a written agreement entered into between a sponsor and an applicant pursuant to ORS chapter 338.

(4) "Sponsor" means:

(A) The board of the common school district or the union high school district in which the public charter school is located that has developed a written charter to create a public charter school.

(B) The State Board of Education pursuant to ORS 338.075.

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

Statutes/Other Implemented: ORS 659.850 to 659.855 & ORS 339.285

History:

ODE 11-2019, adopt filed 03/25/2019, effective 03/25/2019

581-002-0003

Scope

OAR 581-002-0001 to OAR 581-002-0023 apply to appeals of complaints alleging:

(1) A violation of ORS 339.285 to 339.303 or OAR 581-021-0550 to 581-021-0570 (Restraint and Seclusion);

(2) A violation of ORS 659.850 or OAR 581-021-0045 to **581-021-0046** (Discrimination and Program Compliance Standards for Purposes Related to Discrimination);

~~(3) If the entity against whom the complaint is filed is a school district, a violation of OAR 581-021-0046 (Program Compliance Standards for Purposes Related to Discrimination);~~

(3) If the entity against whom the complaint is filed is a school district, education service district, or public charter school, a violation of OAR 581-021-0038 (Requirements Related to Sexual Harassment);

(4) If the entity that is the subject of the complaint is a school or program operated by a school district, education service district, or public charter school, a violation of OAR 581-021-0047 (Prohibition against Using Native American Mascots);

(5) If the entity against whom the complaint is filed is a school district, an education service district, a Youth Corrections Education Program provider under contract with the department, or a program that receives moneys pursuant to ORS 343.243 (3) or (4), a violation of ORS 659.852 (Retaliation); or

(6) A violation of the Oregon Administrative Rules, chapter 581, division 022 (Division 22 Standards).

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

Statutes/Other Implemented: ORS 659.850 to 659.855 & ORS 339.285

History:

ODE 11-2019, adopt filed 03/25/2019, effective 03/25/2019

Oregon State Board of Education

February 16, 2023

AGENDA ITEM: 3.B.

<p>SUBJECT: Discrimination OARs: OAR 581-021-0045, OAR 581-021-0046, OAR 581-022-2370, OAR 581-002-0001, OAR 581-002-0003</p> <p>STAFF NAME & OFFICE: Kate Hildebrandt, Director's Office; Karin Moscon, OTLA</p> <p>Various OARs define discrimination in education and make requirements school districts must follow for creating nondiscriminatory environments and responding to complaints of discrimination. These proposed changes are designed to clarify requirements around discrimination, to better align Oregon's rules with Federal law, and to clarify rights for students, families, school staff, and community members.</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 type="checkbox"/> Presentation <input checked="" type="checkbox"/> No Presentation</p>
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BACKGROUND

Oregon law prohibits discrimination in any elementary and secondary schools that receive federal funding. A variety of OARs help implement nondiscrimination law by prohibiting discrimination in schools, requiring certain actions to prohibit discrimination, and requiring districts to have complaint processes that address discrimination.

- [OAR 581-021-0045](#) defines discrimination and prohibits it in state funded education programs. It also defines a number of protected class categories.
- [OAR 581-021-0046](#) enumerates program compliance standards for schools in relation to discrimination, addressing topics like athletics, textbooks and curriculum materials, and dress codes.
- [OAR 581-022-2370](#) requires districts to have complaint processes, including a process that covers discrimination complaints.
- OARs [581-002-0001](#) and [581-002-0003](#) relate to ODE's process for resolving complaints and appeals, including appeals of discrimination complaints which were first made to districts.

These changes were informed by a series of community engagements ODE conducted in Feb/Mar 2022 related to ODE's 2016 Transgender Student Guidance. Over 500 school staff, students, families, and community members responded to a survey regarding the content of the guidance; within this survey, respondents drew attention to inequities that occur for gender expansive students in schools, including inequitable dress codes and some schools not treating gender identity as a protected class. Some of these proposed changes were also informed by engagement sessions ODE conducted in summer 2022 on the complaint and appeals process.

The proposed changes are not required by statute, but are designed based on community input to better implement discrimination law and related processes. The proposed changes are designed to:

- address community concerns brought to us during these engagement processes;
- better align Oregon rule and federal law;
- clarify the rights of students, families, and community members; and

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AGENDA ITEM: 3.B.

- address minor technical fixes needed in these rules.

SUMMARY OF PREVIOUS BOARD ACTION

This is the second time these current proposed changes have been before the Board. At the January meeting, the Board had questions primarily about the changes in 581-022-2370 regarding who can submit complaints, and how those processes work.

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:

Modification to proposed OAR 581-021-0045(4)(b)(B)

We received some feedback from members of the RAC that the requirements for where to post the notice of nondiscrimination would include a large number of documents that would be onerous for school districts. They drew specific attention to the inclusion of “school board documents,” noting that, this might be onerous for for school districts. We are balancing this with the feedback we received from other community engagement stating that it was important for students and families to have quick and easy access to this information in a variety of formats. The proposed modifications are highlighted in yellow:

(B) Be posted in multiple locations, including but not limited to public-facing documents such as staff and student handbooks, annual publications, official school board documents, bulletins, graduation announcements, catalogs, recruitment materials, and school related applications.

The proposed changes would clarify that these requirements only apply to public-facing documents. We have also removed the specific inclusion of “email listservs,” but note that public-facing emails that fell into any of the above categories would still be required to have the notice.

Modification to proposed OAR 581-022-2370(1)(c)

The State Board and other community members had some questions about how this provision would work if a third party was submitting a complaint on behalf of a protected class group rather than a specific person (for example: a nonprofit submits a complaint to a school district that school buildings are not ADA accessible for individuals with impaired mobility, but there is not one specific student or community member who the complaint is on behalf of). To clarify this, we modified the language (highlighted in yellow) to state:

- (1) Each school district must establish a process for the prompt resolution of a complaint by:
- (a) a person who resides in the district; or
 - (b) any parent or guardian of a student who attends school in the district; or

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AGENDA ITEM: 3.B.

- (c) any person who alleges that they have been subjected to discrimination, or a third party representing such persons **or groups of persons**

POLICY ISSUE OR CONCERNS

Broadly, the changes we are proposing will:

- add definitions for disability and sex, and link the definition of Latinx/a/o/e to the definitions in the Latinx Student Success Plan rules (proposed in 581-021-0045)
- require schools to issue a notice of nondiscrimination that covers all Oregon and federal protected classes, and that the notice must be available in plain language, in an accessible format, and in languages of the communities served (proposed in 581-021-0045)
- clarify prohibitions on discrimination related to dress codes, requiring that dress codes cannot discriminate and that they must be gender-affirming, culturally-affirming, and racially-affirming (proposed in 581-021-0046)
- explicitly list charter schools under nondiscrimination requirements, to clarify they are subject to these rules (proposed in 581-021-0045 and 581-002-0001)
- clarify that sexual harassment as defined in OAR 581-021-0038 is a form of discrimination covered by these discrimination rules (proposed in 581-002-0003 and 581-002-2370)
- clarify that any person who has experienced discrimination can submit a complaint of discrimination to a district, and that third parties representing such persons can also submit complaints (proposed in 581-022-2370)

Between November 2022 and January 2023, we conducted a targeted community engagement process on these proposed rules. This included:

- Open request for community engagement via email (Nov 17, 2022)
 - Directed email to ~40 community partners
 - Information spread through requests to Student Success Plan Advisory Groups
- Two open community engagement sessions (Dec 2 and Dec 12, 2022)
- Presentation to LGBTQ2SIA+ Student Success Advisory Group (Dec 2022)
- Presentation to Southern Oregon ESD GSA Advisor Affinity Group (Dec 2022)
- Presentation to ODE Rules Advisory Committee (Jan 5, 2023)
- Presentation to Latinx Student Success Advisory Group (Jan 17, 2023)

We have received significant feedback on these proposals during our engagement sessions.

- Participants appreciated that the notice of nondiscrimination will be required to be written in plain, accessible language, and that it must be issued in languages of the community. Participants shared that this would be especially important for students and families with disabilities, and students and families that speak languages other than English at home. Some participants requested that ODE provide a sample notice of nondiscrimination and provide it translated into the most common languages, as a cost-saving measure for districts. ODE will be looking into this as an implementation measure.
- Participants appreciated the updates to the dress code requirements. Participants noted that this would be especially important for girls and gender expansive students. A few participants questioned whether it would be appropriate to define gender-affirming, racially affirming, or

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culturally affirming either in rule or in guidance. Some participants asked us to explicitly link these requirements to the CROWN Act and to ORS 329.451(14)(a) regarding tribal regalia. We believe that the links to the CROWN Act and the tribal regalia act can be discussed in guidance.

- Related to the proposed language in 581-022-2370 that that third parties may submit complaints on behalf of a person, we have received mixed feedback. The majority of participants were in support of the inclusion of third parties, citing that many students and families would not have been able to submit complaints without the support of a community based organization, and that community based organizations may be able to submit complaints this way when individual students or families are too scared of retaliation to report discrimination. A few participants brought up the concern that third parties may file complaints without the permission of the party, and that there could be cases where a party did not want a complaint filed or did not want to move an investigation forward. We believe that the language of this bill still allows school district to process complaints on an individual basis, including the ability to dismiss complaints if the impacted person requests to do so.
 - We also received feedback regarding clarity around the ability of third parties to submit complaints on behalf of protected class groups rather than individuals. We have proposed clarifying language around this feedback,.
- Participants appreciated the explicit inclusion of charter schools into these rules, noting that it would make it easier for schools, students, and families to understand that charter schools are subject to these rules.

EQUITY IMPACT ANALYSIS

The proposed changes are designed to positively impact all protected class students and school community members. The proposed notice of nondiscrimination requirement in 581-021-0045 is intended to make school nondiscrimination policies and procedures widely known and easily accessible, so that anyone who experiences discrimination has easy access to the correct school district staff and the correct policies. We received feedback during our community engagement sessions that the proposals to require it to be in plain language, in an accessible format, and to be available in languages of the community were particularly important to marginalized students and their families.

The proposed revisions to dress code requirements in 581-021-0046 are designed to address discrimination faced by protected class students in school dress codes. It is intended to supplement and work alongside other rules and laws like the CROWN Act and Oregon’s law that allows students to wear tribal regalia at graduation. We received feedback from community members that this proposed change was particularly important for gender expansive students, for girls, and for Black students who are often disproportionately impacted by school dress codes.

FISCAL ANALYSIS

The fiscal responsibilities for ODE are negligible. ODE already has experts who can support districts with technical assistance around implementing these changes, and who can provide additional guidance and best practices around preventing and addressing discrimination.

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Districts may have small costs associated with these rules, because they may be required to update their policies and their website. The proposed rules for the notice of nondiscrimination will require schools to post the notice in languages spoken by the community, which may incur minor costs associated with translation services.

EFFECT OF A "YES" OR "NO" VOTE

If approved, the proposed changes will implement new requirements related to discrimination for school districts, including requiring schools to issue a notice of nondiscrimination (in languages of the community and in an accessible format) that covers state and federal protected classes, ensuring that school dress codes are nondiscriminatory, and ensuring that any person subject to discrimination in a school district may submit a complaint.

STAFF RECOMMENDATION

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

ATTACHMENTS

Attachment 1: Proposed Rules (2022 Discrimination Rules Revisions Proposal_1.26.2023)

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AGENDA ITEM: 3.C.

<p>SUBJECT: Acceptance of credits earned in educational programs as required by Senate Bill 1522. Amendment of OAR 581-021-0210.</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>Currently districts must evaluate student’s transcripts under their own policies and procedures to determine what, if any, credits they will accept from educational programs under OAR 581-021-0210 which leads to inequities in which credits are accepted. This rule amendment requires school districts accept credits earned in Oregon from Youth Corrections Educational Programs (YCEP), Juvenile Detention Education Programs (JDEP), Long Term Care & Treatment facilities, as well as hospital education programs, known collectively as educational programs. This change is required by sections 5 & 6 of Senate Bill 1522 (2022).</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?
 - i. SB 1522 was passed in 2022, which directed the department to make these updates.
 - b. What is the current requirement in rule or statute?
 - i. Currently districts must evaluate student’s transcripts under their own policies and procedures to determine what, if any, credits they will accept from educational programs under OAR 581-021-0210.
 - c. Why is this rule being brought forward right now?
 - i. In order to fulfill the requirements of SB 1522 as well as to ensure that all of the credits students earn in Oregon educational programs are honored.
2. Purpose
 - a. What function does the current rule hold?
 - i. The current rule prescribes requirements for the acceptance of credits as well as the evaluation of credits for acceptance.

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- b. How long has the rule been in place?
 - i. The rule has been in place since 1993 and was last updated in 2010, with minor corrections in 2019 and 2022 to correct statutory or rule references.
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.
 - i. The language largely mirrors statute, but the Board has discretion on expanding the requirements for acceptance of credits from additional programs. For example, the rule could be expanded to require the acceptance of credits from out of state educational programs as well as in state programs.
4. Stakeholder voice/input (individual and collective i.e., groups)
 - a. Who was involved in bringing this to the Board?
 - i. ODE reached out to a wide range of stakeholders to get their input, through multiple methods. In particular, our outreach focused on principals, counselors, registrars, staff in YCEP, JDEP, LTCT, and Hospital programs as well as the families and students who participated in these programs and were impacted by this rule.
 - b. What did engagement in this process entail?
 - i. In addition to the Rules Advisory Committee, the engagement process included a statewide survey open to all respondents as well as engagement sessions targeted at both staff and professionals who support the evaluation of transcripts for transfer students as well as the families, caregivers, and students who have experienced YCEP, JDEP, LTCT, and Hospital programs.
 - c. Who may be affected by this?
 - i. The engagement indicated students will be impacted by this update as their credits earned in YCEP, JDEP, LTCT, and Hospital programs were often only counted as elective credit, which can delay their progress towards graduation or even derail it. With this update, students' progress toward graduation will not be impeded by a transfer back to a standard school district program from a YCEP, JDEP, LTCT, and Hospital program.
 - d. Whose voice is missing?
 - i. While we would love to hear from more students to ensure the wide range of their voices were thoroughly captured, there are limitations to our ability to access a large number of students who have experienced these programs.
 - e. What additional information does the Board need prior to moving forward?
 - i. None noted.

SUMMARY OF PREVIOUS BOARD ACTION

1. Has this been before the board before? If so, what action did the board take?
 - a. This item was before the Board on January 18th, 2023.

HAS THE RULE CHANGED SINCE LAST BOARD MEETING?

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X 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:

1. Stakeholders
 - a. How have you intentionally involved stakeholders who are also members of communities affected by this rule?
 - i. Our outreach in community engagement particularly targeted staff, parents, caregivers, families and students who had experienced YCEP, JDEP, LTCT, and/or Hospital Programs.
 - b. Who are the historically underserved groups affected?
 - i. Students in YCEP, JDEP, LTCT, and Hospital programs are disproportionately likely to be from focal student groups, including BIPOC students, students experiencing disability, and students from low income backgrounds and are therefore disproportionately likely to be impacted by the acceptance of transfer credits.
 - c. Has there been consultation or collaboration with tribes in this rule change or policy decision?
 - i. No official tribal consultation was conducted.
 - 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?
 - i. ODE specifically chose the updated rule language to honor the efforts of students and place the credits earned in YCEP, JDEP, LTCT, and Hospital programs as equivalent to the credits earned in standard school district programs.
2. Negative/Positive Effects
 - a. What is the impact on the population most affected by this rule that the board should consider?
 - i. The engagement indicated students will be impacted by this update as their credits earned in YCEP, JDEP, LTCT, and Hospital programs were often only counted as elective credit, which can delay their progress towards graduation or even derail it. With this update, students' progress toward graduation will not be impeded by a transfer back to a standard school district program from a YCEP, JDEP, LTCT, and Hospital program.
 - b. What possible opportunities, assets or access could this rule provide?
 - i. This may increase the number of students who attend YCEP, JDEP, LTCT, and Hospital programs that achieve a high school diploma and it may increase their rate of on time graduation as well.
 - c. What is the impact on eliminating the opportunity or achievement gap?

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- i. If the expected increase in graduation rates and on time graduation rates are seen, this would impact the opportunity gap for those students.
 - d. Have all the potential unintended consequences been considered?
 - i. No additional unintended consequences were identified.
 - e. Does this rule advance the ESSA goals?
 - i. Yes, by making the path to graduation more equitable and achievable for students who attend YCEP, JDEP, LTCT, and Hospital programs.
- 3. What are the barriers to more equitable outcomes, either:
 - a. State or federally mandated? N/A
 - b. Political? N/A
 - c. Emotional? N/A
 - d. Financial? N/A
 - e. Programmatic? N/A
 - f. Language? N/A
 - g. Geography? N/A
 - h. Size? N/A

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. How are historically underserved populations impacted by this docket item?

Students in YCEP, JDEP, LTCT, and Hospital programs are disproportionately likely to be from focal student groups, including BIPOC students, students experiencing disability, and students from low income backgrounds and are therefore disproportionately likely to be impacted by the acceptance of transfer credits.

- a. Demonstrate how the rule changes, policy, or action could produce other unintended consequences not listed in the docket.

No other unintended consequences were identified.

- b. 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 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.

Students who have been in a YCEP, JDEP, LTCT, and Hospital program will be impacted by this update as their credits earned in YCEP, JDEP, LTCT, and Hospital programs were often only counted as elective credit, which can delay progress towards graduation or even derail it. With this update, students'

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progress toward graduation will not be impeded by a transfer back to a standard school district program from a YCEP, JDEP, LTCT, and Hospital program as the credits that they earned in that program must be counted towards both core and elective credits as appropriate.

3. Explain how the rule change, policy or action works toward improving achievement, opportunities and a sense of worthiness for underserved students?

This may increase the number of students who attend YCEP, JDEP, LTCT, and Hospital programs that achieve a high school diploma and it may increase their rate of on time graduation as well. If the expected increase in graduation rates and on time graduation rates are seen, this would impact the opportunity gap for those students.

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?
There is no anticipated impact on ODE's budget for this rule change.
 - a. Which units/divisions/offices will be impacted and how?
 - i. N/A
2. How does the proposed rule change impact school districts and ESDs?
 - a. School districts and ESDs will need to update their credit acceptance policies.
3. How does the proposed rule change impact schools and other educational institutions?
 - a. N/A
4. Does the proposed rule change impact other stakeholders?
 - a. This will create less work for families, caregivers, and students who are transferring back to their home districts from a non-standard educational program.

EFFECT OF A "YES" OR "NO" VOTE

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

If the Board does not approve this rule update, ODE will be out of compliance with SB 1522 and students' earned credits will not be required to be honored when they transfer back to a standard school district.

STAFF RECOMMENDATION

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

ATTACHMENTS

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AGENDA ITEM: 3.C.

Attachment 1: OAR 581-021-0210 Revised Language

581-021-0210

Evaluating Student Transcripts

When evaluating student transcripts, the school district shall:

(1) Accept credits and attendance completed in educational programs in this state standard Oregon schools as if they had been earned in the enrolling district consistent with OAR 581-022-2025;

(2) As used in this rule, “educational programs in this state” means an educational program that is:

(a) Provided by a school district, a public charter school, an education service district, the Youth Corrections Education Program, or the Juvenile Detention Education Program in Oregon; or

(b) Funded as provided by ORS 343.243 for students in a long term care or treatment facility described in ORS 343.961 or a hospital identified in ORS 343.261;

~~(32)~~ For out-of-state transfer students, accept credits and attendance completed in standard secondary schools as if the requirements had been completed in this state consistent with OAR 581-022-2025;

~~(43)~~ For transfer students who are dependents of an active duty or deployed member in the uniformed service of the United States, accept credits and attendance as if the requirements had been completed in this state consistent with OAR 581-022-2025.

(a) For purposes of this rule, “active duty” means full-time duty status in the active uniformed service of the United States, including members of the National Guard or the military reserve forces who are on active duty orders pursuant to 10 U.S.C. 1209 and 1211 or 32 U.S.C. 502(f) Active Guard/Reserve status.

(b) For purposes of this rule, “deployed” means that period of time spanning one month prior to a service member’s departure from his or her home station on military orders through six months after return to his or her home station.

~~(54)~~ For students from private, alternative, or nonstandard public secondary schools:

(a) Determine the value of prior credits consistent with OAR 581-022-2025; and

(b) Determine the number of years of school attendance or equivalent.

~~(65)~~ Determine placement for students enrolled in kindergarten through grade 8;

~~(76)~~ Determine the value of credits obtained through home school-based courses, on-line or other distance learning methods in meeting the graduation requirements consistent with OAR 581-022-2025; and

(87) Determine the value of credits obtained in approved community college programs in meeting graduation requirements consistent with OAR 581-022-2025.

Statutory/Other Authority: ORS 326.051

Statutes/Other Implemented: ORS 326.051 & 326.565

History:

[ODE 44-2022, minor correction filed 08/25/2022, effective 08/25/2022](#)

[ODE 143-2019, minor correction filed 09/25/2019, effective 09/25/2019](#)

ODE 15-2010, f. & cert. ef. 11-15-10

EB 5-1994, f. & cert. ef. 4-29-94

EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93

Oregon Department of Education

Chapter 581

Division 22

STANDARDS FOR PUBLIC ELEMENTARY AND SECONDARY SCHOOLS

581-022-2130

Kindergarten **Community-Informed Assessment Information Gathering Process at Kindergarten**

(1) (a) The Department of Education shall implement a ~~kindergarten assessment~~ **community-informed process at the kindergarten level** as part of the statewide assessment system implemented pursuant to ORS 329.485. ~~The assessment process shall allow for information collection that will inform state level decisions about Oregon's early education and child care programs and policies to improve quality and access to programs and promote relationship building among educators, children and families. The kindergarten assessment shall allow for the assessment of children to determine their readiness for kindergarten.~~

(b) ~~Once the Department determines that the information gathering process is scalable statewide, piloting process, all-school districts shall administer the kindergarten support families, and students, and educators in participating assessment to~~ **for all students who are enrolled in kindergarten.**

(2) The Department shall work jointly with the Department of ~~Early Learning and Care~~ **Early Learning Council** and ~~in partnership with Oregon community members to develop an anti-racist information gathering process. to adopt a tool to be used for the kindergarten assessment.~~ **The kindergarten assessment process shall collect information in areas of school readiness, determined to be important to Oregon families and educators to inform the Early Childhood Education and Care Sector.** ~~which may include physical and social-emotional development, early literacy, language, cognitive (including mathematics), and logic and reasoning. The tool selected process will be appropriate for all children, including children with experiencing disabilities with high need and multilingual English language learners, and will align with Oregon's early learning and development standards as well as the adopted Common Core State Standards.~~ (a) ~~All school districts shall administer the kindergarten assessment to students who are enrolled in kindergarten.~~

(b) ~~Notwithstanding subsection (a) of this rule, the kindergarten assessment is suspended and shall not be administered for the 2021-2022 school year.~~

(3) The Department shall ~~work with the Oregon Longitudinal Data Collaborative to include results from the kindergarten assessment process in the statewide longitudinal data system, as applicable.~~

Statutory/Other Authority: ORS 326.051 & 329.485

Statutes/Other Implemented: ORS 329.485 & 2013 OL Ch. 37 & Sec. 14 (Enrolled HB 4165)

History:

ODE 12-2021, amend filed 04/21/2021, effective 04/21/2021

ODE 24-2020, temporary amend filed 05/28/2020, effective 05/28/2020 through 11/23/2020

ODE 34-2016, f. & cert. ef. 5-17-16

ODE 8-2013, f. & cert. ef. 4-5-13

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AGENDA ITEM: 4.A.

<p>SUBJECT: Early Learning Transition Check-In/OAR 581-022-2130 Community-Informed Information Gathering Process at Kindergarten</p> <p>STAFF NAME & OFFICE: Dan Farley and Sody Fearn, Office of RADAR</p> <p>There is an existing administrative rule that governs the assessment process at the kindergarten level. The Department is proposing revisions to the rule that would (1) allow for information collection that will inform state level decision about Oregon’s early education and child care programs, policies and practices (2) support families and students in participating in the assessment process for all students enrolled in kindergarten. This recommended direction does not align with current OAR language for the “Kindergarten Assessment” requirement at OAR 581-022-2130. ODE is making policy change recommendations to align with the new approach and be open to other possible components that will inform state level decisions about Oregon’s early learning and care sector. The rule has been adjusted to address concerns about the term “assessment” shared by the State Board of Education at the first reading in September 2022.</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</p> <p style="padding-left: 20px;"><input type="checkbox"/> Presentation <input type="checkbox"/> No Presentation</p> <p><input checked="" type="checkbox"/> Action</p> <p style="padding-left: 20px;"><input type="checkbox"/> Temp Rule <input checked="" type="checkbox"/> Presentation <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? The historical purpose of the assessment was to provide insight into students’ readiness for kindergarten. The assessment provided local and statewide information that gave families, schools, communities, and state-level policy makers a snapshot of the social, self-regulatory, and academic skills of incoming kindergartners. The assessment also provided information to policymakers and served as a statewide tool for identifying systemic opportunity gaps, determining Early Learning resource allocation to best support students in need, and measuring change over time. The kindergarten assessment was administered in the fall to all kindergarten students. Due to the COVID-19 pandemic, the OKA was suspended by the State Board of Education in the fall of 2020 to 2021. The delay presented ODE and ELD with an opportunity to redesign the assessment approach via engagement with Oregon communities. Together, we can develop a reimagined approach that is meaningful and supportive of Oregon children, families, and educators. On May 19, 2022 ODE and ELD presented the initial plan for developing a redesigned approach, called the, “Early Learning Transition Check-In: A Collaborative Engagement with Community,” to the Oregon State Board of Education.
 - b. What is the current requirement in rule or statute?
OAR 581-022-2130 required the Oregon Department of Education and the Early Learning Division to co-design and develop and school districts to administer a kindergarten

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assessment as part of the statewide assessment system. The State Board directed the Department to develop the kindergarten assessment by November 2013 and required school districts to begin administering it in the 2013-14 school year.

c. Why is this rule being brought forward right now?

The Early Learning Transition Check-In will collect a statewide snapshot of data about children and families as they begin kindergarten. The primary purpose will be to inform state-level decisions about Oregon's early learning and care sector. The redesigned components will also meaningfully support families in building relationships with their kindergarten educators by inviting them to share about their family's and child's experiences before kindergarten. This recommended direction does not align with current OAR language for the Kindergarten Assessment requirement at OAR 581-022-2130. ODE is making policy change recommendations to align with the new approach and recommendations provided by the State Board of Education as part of this second read presentation.

2. Purpose

a. What function does the current rule hold?

This presentation proposes changes to OAR 581-022-2130 that will allow flexibility in developing a new redesigned approach that can be administered at the beginning of kindergarten. This update will align the work being done to the requirements under OAR 581-022-2130.

b. How long has the rule been in place?

The kindergarten assessment rule was adopted by the Board in 2013. The Board adopted a revision to OAR 581-022-2130 in May 2020 suspending the Kindergarten Assessment for the 2020-21 school year.

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.

The board established the OAR that defines the former Kindergarten Assessment and has full authority regarding this recommended policy change.

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?

What additional information does the Board need prior to moving forward? ODE and ELD are collaborating with an advisory panel to redesign the assessment process. The advisory panel consists of early educators, kindergarten educators, early learning system partners, and researchers.

In May and June of 2022, ODE and ELD staff conducted Family Listening Sessions with a small number of families to gain initial feedback on the interview questions and process. The purpose of these family listening sessions was to ask families if the questions created were clear and

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meaningful, if the process was welcoming and easy to conduct, and if they would recommend any changes to improve the questions or the experience.

In June of 2022, ODE and ELD staff also consulted on the family interview with the project's Advisory Panel. The Advisory Panel includes early educators, kindergarten educators, early learning system partners, and researchers. ODE and ELD is revising the family interview design based on feedback from the family listening sessions and from the Advisory Panel.

The revised version was used during a Fall 2022 Pilot to try out the new tool with more kindergarten educators and families. The OAR was reviewed by the Rule Advisory Committee in September 2022 and again in January 2023. The State Board of Education also provided input at the September meeting and incorporated into the update. We collaborated with Oregon Kitchen Table to engage with pilot participants. With the input from the Early Learning Transition Check-In Advisory Panel, ODE and ELD will use the recommendations from that report to adjust the Fall 2023 pilot which will include additional schools across various parts of the state. The family interview will be the first component of this process and other components could be included based on broader community engagement, intentionally seeking input from communities that have been historically and currently underserved by our school systems.

SUMMARY OF PREVIOUS BOARD ACTION

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

Yes, The Oregon State Board of Education has previously heard about the Fall Pilot at the May 2022 State Board meeting. As mentioned above, the kindergarten assessment rule was adopted by the Board in 2013. The rule was revised in 2016 to remove a reference to the Oregon Education Investment Board. The State Board suspended the kindergarten assessment in the fall of 2020 and 2021 due to the pandemic. The Board also used this opportunity to request that ODE and ELD use the time window created to redesign the assessment such that it met the needs of education and community partners and did not promote the inequities present in the design and implementation of the prior iteration of the kindergarten assessment. The Board again heard proposed language recommendations by ODE at the first reading in September 2022 and made recommendations to remove the word "assessment" from the entire OAR.

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:

The rule has been adjusted to address concerns about the term "assessment" shared by the State Board of Education at the first reading in September 2022.

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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?
In addition to what was learned in the family listening sessions above, ODE and ELD presented to the following groups to collect feedback about the direction, process and questions:
 - i. Oregon State Board Rules Advisory Committee in September 2022 and January 2022
 - ii. COSA conferences: Summer 2022 Conference and Annual Principals Conference 2022
 - iii. Preschool/K12 Summit Summer 2022
 - iv. Migrant Education Summit Fall 2022 about the family interview for the fall 2022 pilot
 - b. Who are the historically underserved groups affected? To align with ODE's Equity Stance, we must seek engagement with families that disproportionately been impacted by the pandemic. They include community groups that:
 - i. experience poverty
 - ii. use home languages different from English
 - iii. receive migrant education programming
 - iv. identify as people of color including Black/African American, American Indian/Alaskan Native, Latino/a/x, Pacific Islander
 - v. receive early childhood special education services
 - vi. have students living in foster care
 - vii. may be experiencing houselessness
 - c. Has there been consultation or collaboration with tribes in this rule change or policy decision? Yes, we have a representative from the Early Learning Division, who works directly with our Tribes and has connected us with families who participated in the spring listening session. The team is also engaging in regular conversations with reprehensive members of the Office of Indian Education. They are providing input the professional learning materials and connecting us to different school districts with Title VI officers.
 - 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? ODE and ELD team have received multiple recommendations from community members. The input from the Spring 2022 listening sessions, migrant education educators/families and feedback from the fall 2022 pilot have been most impactful to this project. It is essential we seek opportunities to engage and ask for input from communities that are underserved in our school system.
2. Negative/Positive Effects
 - a. What is the impact on the population most affected by this rule that the board should consider?

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The rule change would support these goals:

- Incorporate anti-racist practices in assessment approach
 - Elevate community voice in assessment design
 - Strengthen connections between families and educators
 - Inform early learning and care programs, practices, and policies
 - Improve efforts to meet the needs of Oregon children and families
- b. What possible opportunities, assets or access could this rule provide? The rule change intentionally advances equity, by taking a more holistic view of children, by giving families an opportunity to share important contextual information about themselves, and by shifting away from focusing on children’s “readiness”.
- c. What is the impact on eliminating the opportunity or achievement gap? Establishing and building relationships with families will create welcome and inclusive environments, creating communication pathways to improve student success. Learning about students’ pre-k experiences and how to improve access to publicly funded programs for families will also help the early learning and care sector increase the quality and reach of the services available in Oregon.
- d. Have all the potential unintended consequences been considered? While it is too early to answer this question adequately, ODE and ELD will need to develop training that accompanies the family interview protocols and scripts so that LEAs and educators know how to implement with fidelity, guard against implicit bias. ODE and ELD will also need to provide training to partners around how to interpret and use the information gathered (especially around community funds of knowledge) to adapt their curriculum, instruction, and assessment practices.
- e. Does this rule advance the ESSA goals? Through this approach, we believe users at the Early Learning Division and its partners will better understand families’ experiences before kindergarten which will inform changes to state-funded programs and provide insight on better ways to support families who choose other types of experiences prior to kindergarten such as home care.
3. What are the barriers to more equitable outcomes, either:
- Funding for meaningful teacher training and engagement
 - Staffing demands to support scheduling for parents and parent work schedules
 - Location and safe, welcoming environment to support the interview process
 - Translations and access to interpreters
 - Interviews counting toward instructional time
 - Implicit biases in interactions and interpretations of responses with families
 - Safe and welcoming environment for families who have historically had limited access to educational settings
 - Confidentiality and misuse of information

EQUITY IMPACT ANALYSIS

Oregon State Board of Education

MEETING DATE: February 16, 2023

AGENDA ITEM: 4.A.

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

1. How are historically underserved populations impacted by this docket item?
The redesigned kindergarten assessment will center community and education partner voice and will be implemented in accordance with anti-racist assessment practices. The first component of the new assessment process is a family interview process, where Kindergarten teachers will sit with families and ask them important questions about their child's experiences and the conditions that create the best learning environments for them. ODE and ELD are intentionally connecting with families and students who have been historically marginalized by our education systems to ensure that the approach we are taking is respectful, accessible, and provides meaningful information for both families and educators, regardless of the child's background.
2. Examine the 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.
ODE and ELD are intentionally connecting with families and students who have been historically marginalized by our education systems to ensure that the approach we are taking is respectful, accessible, and provides meaningful information for both families and educators, regardless of the child's background.
3. Explain how the rule change, policy or action works toward improving achievement, opportunities and a sense of worthiness for underserved students?
Establishing and building relationships with families will create welcome and inclusive environments, creating communication pathways to improve student success. Learning about students' pre-k experiences and how to improve access to publicly funded programs for families will also help the early learning and care sector increase the quality and reach of the services available in Oregon.

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:

The pilot of the Early Learning Transition Check In was allotted \$218,348 for the 2022-23 school year in the Assessment Team's budget. ELD has also committed \$250,000 to support the effort. A similar level of funds will be leveraged to support a pilot administration of the Early Learning Transition Check In process in the fall of 2023. However, substantial investment will be required to develop and sustain the family interview at scale in Oregon, including supporting educator time to participate in the engagement process, time spent training to conduct the interview process, and articulating data review, reporting, and interpretive meetings to inform systems. ODE submitted a policy option package to request approximately \$1.5 million in additional funding per biennium to support scaling the family interview statewide during the pending long session.

EFFECT OF A "YES" OR "NO" VOTE

Oregon State Board of Education

MEETING DATE: February 16, 2023

AGENDA ITEM: 4.A.

Explain the consequences of a Board approving or not approving the staff recommendation. If the Board approves the recommendation, the Early Learning Transition Check In family interview process pilot will move forward, taking Oregon's Kindergarten assessment process a new direction. If the Board does not approve the recommendation, ODE would need to request another suspension of the requirement to implement the Kindergarten Assessment for 2022-23.

STAFF RECOMMENDATION

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

ATTACHMENTS

Attachment 1:



Community Informed Information Gathering Process at Kindergarten Rule Change OAR 581-022-2130

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Dan Farley, Andrea Lockard, and Sody Fearn
Oregon Department of Education
February 16, 2023

Kindergarten Assessment

Subject: 581-022-2130

Concept: There is an existing administrative rule that governs the assessment process at the kindergarten level. The Department is proposing revisions to the rule that would (1) allow for information collection that will inform state level decision about Oregon's early education and child care programs, policies, and practices (2) support families and students in participating in the assessment process for all students enrolled in kindergarten.

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Proposed Rule Changes Impacts: Community Informed Information Gathering Process at Kindergarten



- The change in language is intentional. There are different terms that we are using to frame student assets
- We are also centering equity and anti-racist practices by intentionally partnering with families to develop an information gathering process at kindergarten 66
- Removal of the word “assessment” to reinforce the approach we are taking

OAR Proposed Update



Community Informed Information Gathering Process at Kindergarten

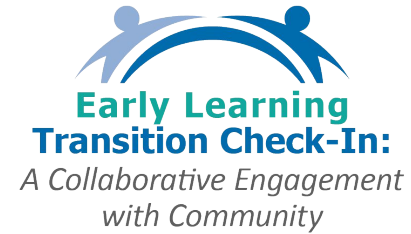
(1) (a) The Department of Education shall implement a process at the kindergarten level as part of the statewide assessment system implemented pursuant to ORS 329.485. The process shall allow for information collection that will inform state level decisions about Oregon's early education and child care programs and policies to improve quality and access to programs and promote relationship building among educators, children and families.

(b) Once the Department determines that the information gathering process is scalable statewide, school districts shall support families, students, and educators in participating for all students who are enrolled in kindergarten.

(2) The Department shall work jointly with the Department of Early Learning and Care and in partnership with Oregon community members to develop an anti-racist information gathering process. The process shall collect information in areas determined to be important to Oregon families and educators to inform the Early Childhood Education and Care Sector. The process will be appropriate for all children, including children with disabilities and multilingual learners.

(3) The Department shall work with the Oregon Longitudinal Data Collaborative to include results from the process in the statewide longitudinal data system, as applicable.

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Comments? Questions? Recommendations?

OAR Proposed Language Change



Kindergarten ~~Community-Informed Assessment~~ Information Gathering Process at Kindergarten

(1) (a) The Department of Education shall implement ~~an kindergarten assessment~~ **community-informed process at the kindergarten level** as part of the statewide assessment system implemented pursuant to ORS 329.485. ~~The assessment process shall allow for information collection that will inform state level decisions about Oregon's early education and child care programs and policies to improve quality and access to programs and promote relationship building among educators, children and families. The kindergarten assessment shall allow for the assessment of children to determine their readiness for kindergarten.~~

(b) ~~Once the Department determines that the information gathering process is scalable statewide, piloting process, all school districts shall administer the kindergarten support families, and students, and educators in participating assessment to~~ **for all students who are enrolled in kindergarten.**

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(2) The Department shall work jointly with the Department of ~~Early Learning and Care~~ **Early Learning Council** and ~~in partnership with Oregon community members to develop an anti-racist information gathering process. to adopt a tool to be used for the kindergarten assessment.~~ **in partnership with Oregon community members to develop an anti-racist information gathering process.** The ~~kindergarten assessment process shall collect information in areas of school readiness, determined to be important to Oregon families and educators to inform the Early Childhood Education and Care Sector. which may include physical and social-emotional development, early literacy, language, cognitive (including mathematics), and logic and reasoning. The tool selected process will be appropriate for all children, including children with experiencing disabilities with high need and multilingual English language learners, and will align with Oregon's early learning and development standards as well as the adopted Common Core State Standards.~~ **kindergarten assessment process shall collect information in areas of school readiness, determined to be important to Oregon families and educators to inform the Early Childhood Education and Care Sector.** ~~(a) All school districts shall administer the kindergarten assessment to students who are enrolled in kindergarten.~~

~~(b) Notwithstanding subsection (a) of this rule, the kindergarten assessment is suspended and shall not be administered for the 2021-2022 school year.~~

(3) The Department shall **work with the Oregon Longitudinal Data Collaborative to** include results from the ~~kindergarten assessment process~~ **process** in the statewide longitudinal data system, **as applicable.**

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581-017-0444

Awarding and Using Competitive Oregon Farm-to-School Program Education Grants

(1) The Oregon Department of Education shall allocate funds for competitive Oregon Farm-to-School Program education grants.

(2) Competitive Oregon Farm-to-School Program education grants will be awarded to those eligible entities whose grant proposals are judged by the department as best addressing the applicable evaluation criteria.

(3) The department will notify the eligible entities selected for a proposed competitive education grant award by either mail or email. Within two weeks of receiving notice, the entity must notify the department whether it accepts the award.

~~(4) The department will award competitive Oregon Farm-to-School Program education grants for the biennium beginning on July 1, of the first year of the biennium, and ending on June 30, on the second year of the biennium. If funding is available, additional competitive grants will be awarded in subsequent biennia.~~

(5) The amount of any competitive Oregon Farm-to-School education grants awarded by the department on or after July 1, on the first year of the biennium, for the biennium beginning on July 1, will be at least \$2,000.00 and no more than \$100,000.00.

(6) The recipient of a competitive Oregon Farm to School Program education grant that was awarded by the department on or after July 1, on the first year of the biennium, for the biennium beginning on July 1, may reserve up to twenty-five percent of the total amount awarded for all costs incurred through direct administration of the food-based, agriculture-based, or garden-based educational activities offered by the grant recipient, including administrative labor, supplies and indirect costs.

(7) The department may reallocate competitive Oregon Farm-to-School Program education grant funds to other eligible entities if education grant funds either remain after awards are made or become unobligated, or if a grant recipient is not making adequate progress towards spending all of its grant award during the biennium in which the award was made.

(8) Grant funds awarded for use in one biennium may not be carried over to the following biennium, and will revert to the department at the end of the biennium, unless otherwise determined by the department.

(9) Recipients of a competitive Oregon Farm-to-School Program education grant must deposit the grant funds they receive in an account that is separate from their nonprofit food service account, or assign those funds a separate account or index number. Grant funds may only be used for the purpose of providing the food-based, agriculture-based, or garden-based educational activities it proposed to offer for the benefit of children enrolled in a public school or public charter school within a school district, or a center-based program for children.

(10) The department may reallocate competitive education grant funds to other eligible entities if competitive education grant funds either remain after awards are made or become unobligated, or if a grant recipient does not spend all of its grant award during the biennium in which the award was made.

(11) The department, at its sole discretion, may disburse up to twenty-five percent of a grant recipient's award in advance if the recipient can first demonstrate a compelling need.

Statutory/Other Authority: ORS 326.051, HB 2579 (2019) & ORS 336.431

Statutes/Other Implemented: HB 2579 (2019) & ORS 336.431

History:

[ODE 9-2022, amend filed 01/27/2022, effective 01/27/2022](#)

[ODE 21-2021, temporary amend filed 06/22/2021, effective 06/22/2021 through 12/18/2021](#)

[ODE 7-2020, amend filed 03/20/2020, effective 03/21/2020](#)

[ODE 141-2019, temporary amend filed 09/23/2019, effective 09/23/2019 through 03/20/2020](#)

[ODE 25-2018, amend filed 08/17/2018, effective 08/20/2018](#)

ODE 47-2016, f. & cert. ef. 11-1-16

ODE 11-2016, f. & cert. ef. 2-5-16

Oregon State Board of Education

February 16, 2023

AGENDA ITEM: 5.A.

<p>SUBJECT: Farm to School Education Grant Administrative Changes OAR 581-017-0444</p> <p>STAFF NAME & OFFICE: Jessica Visinsky, Dustin Melton, Child Nutrition Programs</p> <p>The proposed amendment to this rules is a technical fix requested by stakeholders and partners to remove the date range for awarding of the grant. This will allow carryover of grant awards to the next biennia, if required.</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 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

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? ORS 336.431 directs ODE to administer grants within the Farm to School program. One such grant program is the Farm to School Education grant which provides grant funds to organizations to provide education of promotion about foods produced or processed in this state. OAR 581-017-0444 establishes rules for administration of this grant. Section (4) of the rule provides set boundaries for award of the funds, which has been an issue for grantees whose grants were not awarded until later in the biennium. The rule change would allow for carryover of awarded funds into the next biennium if required.*
 - b. What is the current requirement in rule or statute? *The department will award competitive Oregon Farm-to-School Program education grants for the biennium beginning on July 1, of the first year of the biennium, and ending on June 30, on the second year of the biennium. If funding is available, additional competitive grants will be awarded in subsequent biennia.*
 - c. Why is this rule being brought forward right now? *These changes were prompted by stakeholder and partner request and urging.*
2. Purpose
 - a. What function does the current rule hold? *The current rule provides guidelines for administration of the education grant.*
 - b. How long has the rule been in place? *The rule has been in place since 2016.*
3. Does the board have any areas of discretion or is this strictly mirroring statute? *The changes to the rule do not affect the overall statute for ODE's administration of the grant. The board may have discretion in how it views or approves the proposed changes affect on that administration..*

Oregon State Board of Education

February 16, 2023

AGENDA ITEM: 5.A.

4. Stakeholder voice/input (individual and collective i.e., groups)
 - a. *There has been extensive engagement with grantees, stakeholders and partnering agencies surrounding this rule and the need for the proposed change.*

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
 No; same as last month
 Yes – As follows:

EQUITY IMPACT ANALYSIS

1. *Traditionally we have seen the smaller organizations that apply for Farm to Education grants struggle the most with the grant application, review, approval and agreement requirement process. These projects are often delayed because of the long process and the funding goes unspent within the strict biennium rule. Removal of the language in OAR would allow for those groups to potentially carryover funds and continue their project work through to completion.*

FISCAL ANALYSIS

1. *No additional fiscal impact will be realized by this rule change.*

EFFECT OF A "YES" OR "NO" VOTE

Approving the rule change will allow grantees an opportunity to carryover grant awards to the next biennium and prevent funding for important projects to be lost.

STAFF RECOMMENDATION

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

ATTACHMENTS

Attachment 1: Draft Rule change

OAR 581-017-0444 - Awarding and Using Competitive Oregon Farm-to-School Program Education Grants

Subject: Farm to School Education Grant fund administration and usage

Concept: Pertaining to the details associated with distribution and management of farm to school education grant funds. Includes allowed funding ranges per grant, timelines, and reallocation.

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Background: The purpose of the competitive Oregon Farm-to-School education grant is to assist entities in paying the costs they incur providing food-based, agriculture-based, or garden-based educational activities for the benefit of children enrolled in a public school or public charter school within a school district, or a center-based program for children.

OAR technical fix was requested by stakeholders and partner organizations

OAR 581-017-0444 - Awarding and Using Competitive Oregon Farm-to-School Program Education Grants

Proposed Rule Changes: Remove the following language from rule:

“The department will award competitive Oregon Farm-to-School Program education grants for the biennium beginning on July 1, of the first year of the biennium, and ending on June 30, on the second year of the biennium. If funding is available, additional competitive grants will be awarded in subsequent biennia.”

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Proposed Rule Impacts:

- Technical fix to allow carryover of individual grant funds into the next biennia, if required.

Oregon State Board of Education

February 16, 2022

AGENDA ITEM: Instructional Materials List Update - New Edition of Amplify Education’s Core Knowledge Language Arts (CKLA), OAR 581-011-0086

<p>SUBJECT: Instructional Materials List Update - New Edition of Amplify Education’s Core Knowledge Language Arts (CKLA), OAR 581-011-0086</p> <p>STAFF NAME & OFFICE:</p> <p>The publisher Amplify Education has requested to update the 2017 version of K-5 Core Knowledge Language Arts (CKLA) materials, adopted by the State Board of Education in 2021, to the updated version of Core Knowledge Language Arts (CKLA). Substituted materials will be supplied to Oregon schools at the contract price of the originally adopted edition unless the price for the substituted version’s price is lower than the 2021 contract price. The updated materials have been reviewed by OTLA’s language arts education specialist, Tina Roberts, who has confirmed the change to be an appropriate update.</p> <p><input type="checkbox"/> New Rule <input 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 State Board of Education adopted Amplify Education’s K-5 Core Knowledge Language Arts (CKLA) 2017 edition as a recommended instructional resource for English Language Arts in October 2021. In 2022, the publisher Amplify Education published an updated edition of CKLA. The updated version meets the ELA adoption criteria set by the State Board of Education in 2020. The updated edition of CKLA includes minor changes that increase the cultural responsiveness of the materials.

Tina Roberts, ODE’s Language Arts Education Specialist, has completed a review of the materials to confirm that they are an appropriate update. Additionally, Northwest Textbook Depository was engaged to confirm that the update was appropriate and would not negatively affect districts currently using the 2017 edition of CKLA. Districts would now be able to purchase the updated version of CKLA for a contract price through Northwest Textbook Depository without conducting a formal independent adoption.

The State Board of Education has the discretion to approve the update to CKLA or decline Amplify Education’s request to update the materials from the 2017 edition to the 2022 edition. We are asking the State Board of Education to approve adding the new edition of CKLA to the list of recommended ELA instructional materials.

SUMMARY OF PREVIOUS BOARD ACTION

The ELA instructional materials list was adopted by the State Board of Education in October 2021. The request to update Amplify Education’s CKLA material from the 2017 edition to the 2022

Oregon State Board of Education

February 16, 2022

AGENDA ITEM: Instructional Materials List Update - New Edition of Amplify Education’s Core Knowledge Language Arts (CKLA), OAR 581-011-0086

edition has not previously been brought before the Board. The Board last approved a substitution under OAR 581-011-0086 at the January 2022 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

The impact of this approval is that districts will be allowed to purchase the updated edition of CKLA for a stable contract price, guaranteed through January 2028, without conducting a formal independent adoption. Independent adoptions require districts to invest resources (time, labor, funds) in order to purchase and implement the materials. Since ODE has already reviewed the materials and confirmed they are appropriate for recommendation, districts who choose to use CKLA 2022 will be positively impacted. The update to the ELA adopted materials list will allow access to updated materials while maintaining the current contract price. ODE has considered all unintended consequences, and we recommend the approval of this addition to the ELA Instructional Materials list.

EQUITY IMPACT ANALYSIS

Districts who serve historically underserved populations will now have access to updated ELA materials for the same price as the currently recommended 2017 edition. The updates to CKLA are intended to increase the cultural responsiveness and relevance of the materials, and were developed to have a positive impact on student engagement, up to and including increased ELA achievement. According to the publisher, the CKLA updates “address some of the requests for further diversity in the program and Amplify would like to make these resources available in Oregon classrooms.” The new research units incorporate instruction and topics that are culturally relevant. The publisher states, “The diverse set of materials provide students with windows and mirrors as they build knowledge through a lens of multiple perspectives.” This allows students to see in the materials people who look like them or who come from similar backgrounds, which allows students to imagine themselves in similar roles and could motivate them to reach beyond perceived limitations. Additionally, these updates engage students in rigorous research on engaging topics, which makes their learning experience more relevant and applicable to their lives.

FISCAL ANALYSIS

The proposed update to CKLA is fiscally beneficial to districts. Allowing the material to be officially updated gives districts the opportunity to purchase the 2022 edition of CKLA for the contract price of the 2017 edition of CKLA. The additional resources will be provided at no additional charge with the purchase of adopted classroom kits. This will ultimately lead to cost savings for districts.

Oregon State Board of Education

February 16, 2022

AGENDA ITEM: Instructional Materials List Update - New Edition of Amplify Education’s Core Knowledge Language Arts (CKLA), OAR 581-011-0086

EFFECT OF A “YES” OR “NO” VOTE

A “YES” vote would allow ODE to substitute the 2022 edition of CKLA to the ELA instructional materials list for the remainder of the contract period (through January 2028).

A “NO” vote would deny the publisher’s request to substitute the 2022 edition of CKLA to the adopted ELA instructional materials list.

STAFF RECOMMENDATION

Approve Approve next month No recommendation at this time

Prompted by: State law changes Federal law changes other

ATTACHMENTS

Attachment 1: OR CKLA Substitution Request



55 Washington St., Suite 800
Brooklyn, NY 11201
www.amplify.com

September 22, 2022

Aujalee Moore
Prog. Analyst & Instructional Materials Coordinator
Oregon Department of Education
Office of Teaching Learning & Assessment
Standards and Instructional Support
aujalee.moore@ode.oregon.gov

RE: Amplify CKLA, Research Units Sub. Request

Dear Ms. Moore:

Amplify has created additional resources in the form of research units within our CKLA curriculum to address some of the requests for further diversity in the program and Amplify would like to make these resources available in Oregon classrooms.

The new Research Units are used in conjunction with the core adopted curriculum and focused on research and inquiry. Amplify recommends that these units be implemented at the end of year due to the pedagogical synthesis and application of skills inherent to the research and inquiry process and the writing or multimodal culminating tasks expected across Grades K-5. However, the units can also be implemented for extended core instruction during flex periods, district designated pausing points, or enrichment periods.

These Research Units incorporate culturally relevant topics and instruction. The diverse set of materials provide students with windows and mirrors as they build knowledge through a lens of multiple perspectives. For example, Grade 3 students will learn about the vibrant music, poetry, and culture of the Jazz Age in the United States. They will learn about famous writers and musicians like Langston Hughes, Louis Armstrong, Billie Holiday, Melba Liston, Tito Puente, and Miles Davis. In the Adventure Stories Unit, Grade 1 students will study the careers of real-world explorers Dr. Eugenie Clark and Sophia Danenberg while thinking critically about how teamwork and collaboration can make greater adventures possible.

Each new Research Unit includes a high-interest authentic tradebook collection that will spark student curiosity and inquiry. In Grade 2, students will soar to new heights through stories of early aviators including the Tuskegee Airmen, Louis Blériot, Aida de Acosta, Alberto Santos-Dumont, and Amelia Earhart. Grade 5 students will listen to and analyze authentic trade books in the Beyond Juneteenth unit including books written by President Barack Obama and Coretta Scott King Award winning author, Angela Johnson.

Amplify CKLA, with the addition of the newly developed Research Units, is compatible with the version of CKLA previously adopted in Oregon. The Research Units have no impact on the prior adopted materials in pagination, illustration, or content. CKLA has created these additional units, in each grade K-5, with materials and instruction focused on research and inquiry. At all grades, these Research Units are supported with a Teacher Guide, student Activity Books, Image Cards, and a collection of authentic Trade Books. This new version of CKLA includes the following new units in addition to the adopted edition:

- Grade K: Art and the World Around Us
- Grade 1: Adventure Stories: Tales from the Edge of the World
- Grade 2: Up, Up, and Away: The Age of Aviation
- Grade 3: All That Jazz
- Grade 4: Energy: Past, Present, and Future
- Grade 5: Beyond Juneteenth: 1865 to Present

These resources will be provided at no additional charge with the purchase of adopted classroom kits. All content reviewed and approved as part of the state adoption will remain available and there will be no change in the cost of the complete program as a result of this substitution.

Amplify is glad to provide digital review access for the new research units upon request and to answer any questions. Thanks for your partnership and consideration of this substitution request.

Sincerely,

Florence Cordovano
Amplify Adoptions Director



Request to Update Core Knowledge Language Arts (CKLA)

Alexa Pearson, Aujalee Moore, Tina Roberts

OAR 581-011-0086: Substitutions of New Editions or Versions of State-Adopted Instructional Materials

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

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

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

(b) **Be supplied in addition to, rather than in place of, the adopted edition**. School districts cannot be required to use a substituted edition or version of a state-adopted material; **both editions must be available for distribution in the state**. However, in the event the substitution contains only minor copyright revisions or revisions that ensure they are current and accurate, the Board may determine that it is not necessary for the originally adopted edition to be available for distribution. ⁸²

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

Updates to CKLA

- **What has stayed the same?**

- Pedagogy and instructional approach
 - Focus on research and inquiry
- Program organization
- Scope and sequence
- Pagination, illustration, and adopted content.

- **What has been updated?**

- Additional research units to “address requests for further diversity in the program”
 - These resources will be provided at **no additional charge** with the purchase of adopted classroom kits.
- High-interest, authentic tradebook collections intended to spark student curiosity and inquiry.



Thank you!



twitter.com/ORDeptEd | fb.com/ORDeptEd





Designing for Equity in Remote and Online Instructional Models

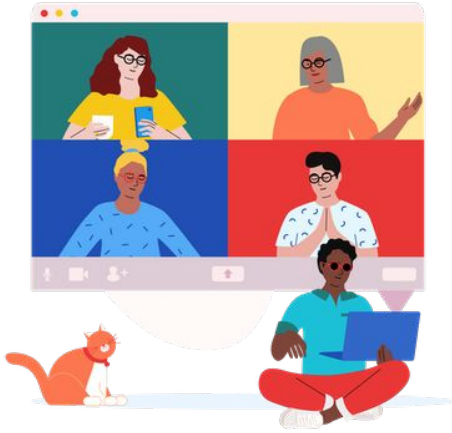
Online and Remote Learning Guidance: Critical Requirements and Design Indicators

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State Board of Education
February 16, 2023

Online and Remote Learning

Schools and programs where the student and the teacher are not in the same physical location for more than half of the student's instructional time.

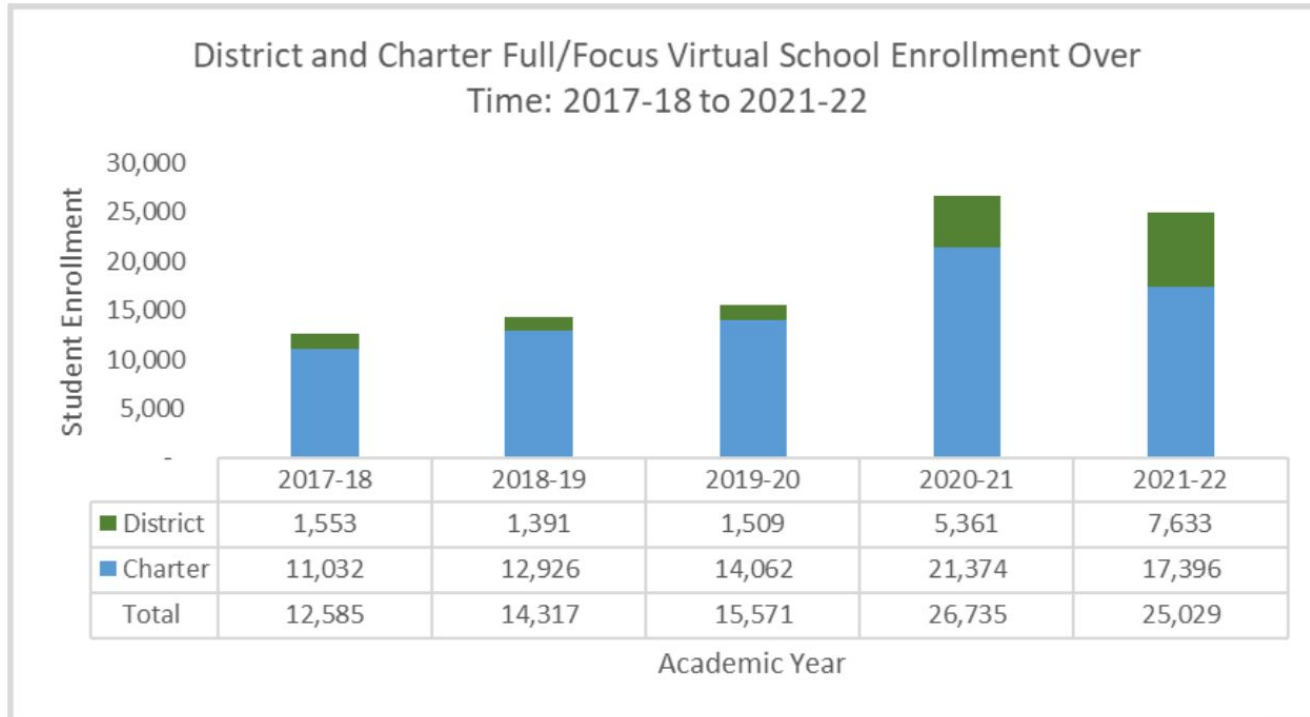


This includes:

- Online schools/programs (full virtual and focus virtual)
- Virtual public charter schools
- Schools/programs that provide non-virtual, home-based instruction

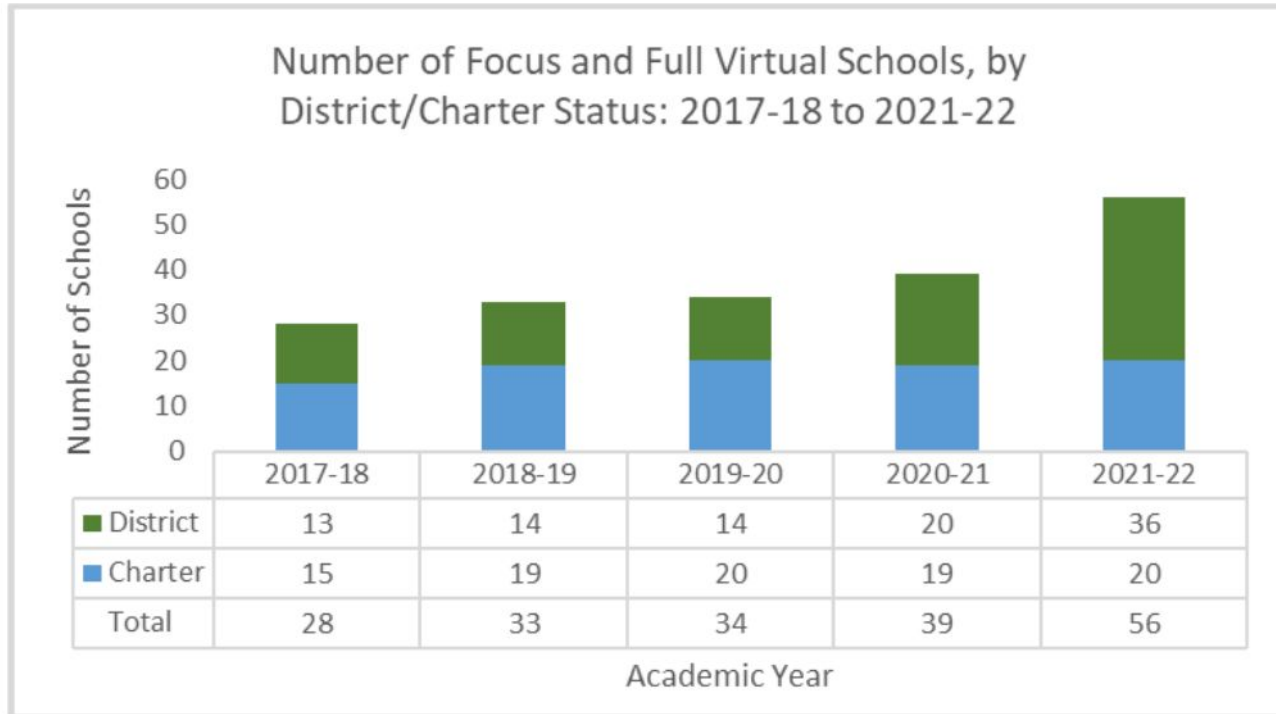
86

Landscape of Online and Remote Learning in Oregon: *Growth Over Time in Enrollment*



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Landscape of Online and Remote Learning in Oregon: *Growth Over Time in Number of Schools*

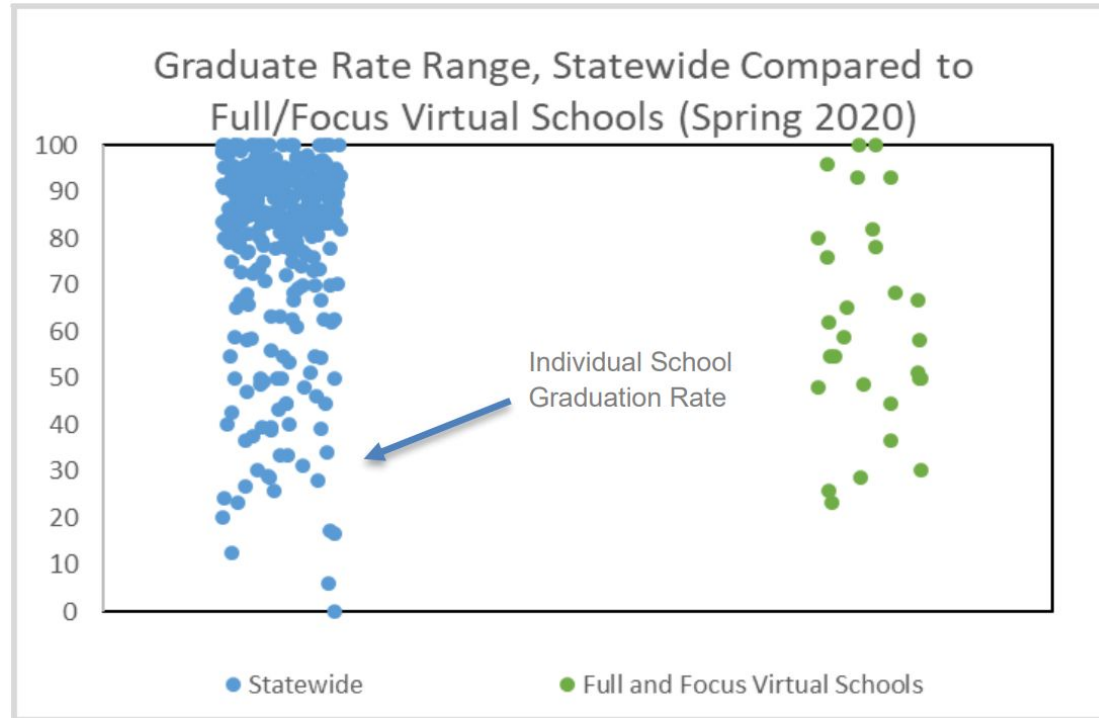


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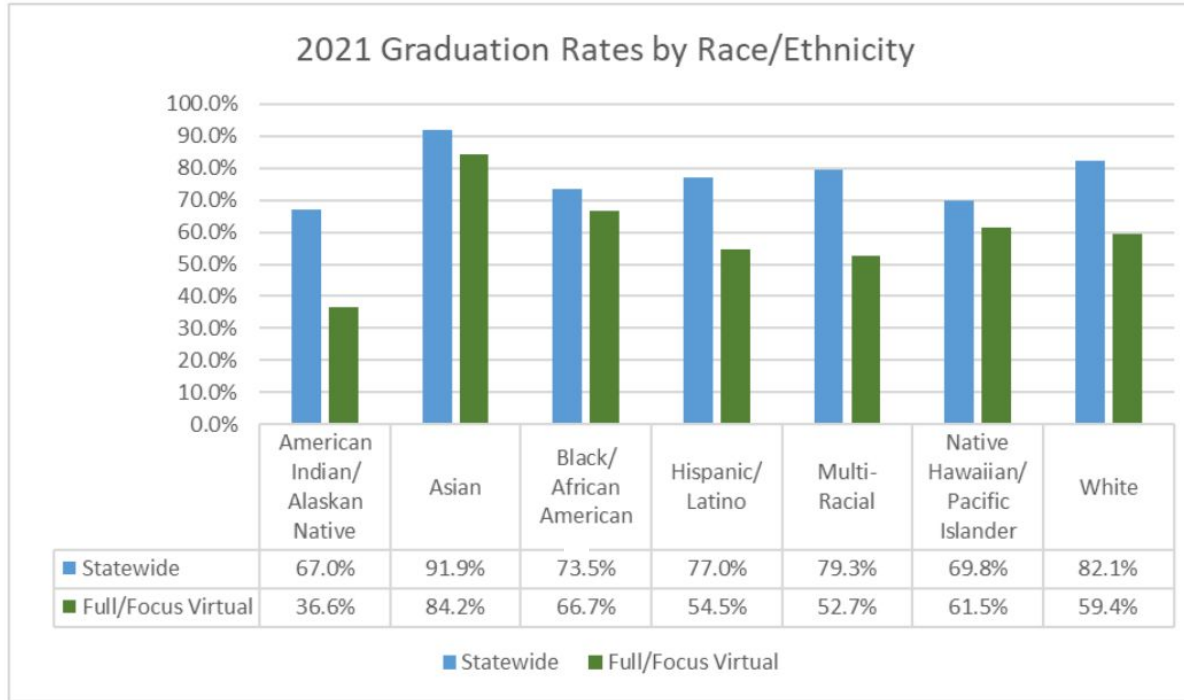
Landscape of Online and Remote Learning in Oregon: *Disparities in Enrollment (2020-21 SY)*

	% of Full/Focus Virtual Enrollment	% of Statewide Enrollment	Percent Difference
Hispanic/Latino	13.5%	24.9%	-11.4%
Asian	2.3%	4.1%	-1.8%
Black or African American	1.9%	2.3%	-0.4%
Native Hawaiian/Pacific Islander	0.5%	0.2%	-0.3%
American Indian/Alaskan Native	1.1%	1.2%	-0.1%
Multi-Racial	6.9%	6.9%	0%
White Students	73.8%	59.8%	14%
Ever English Learners	6.2%	18.6%	-12.4%
Students Receiving Educational Services Under IDEA	11.9%	14.6%	-2.7%

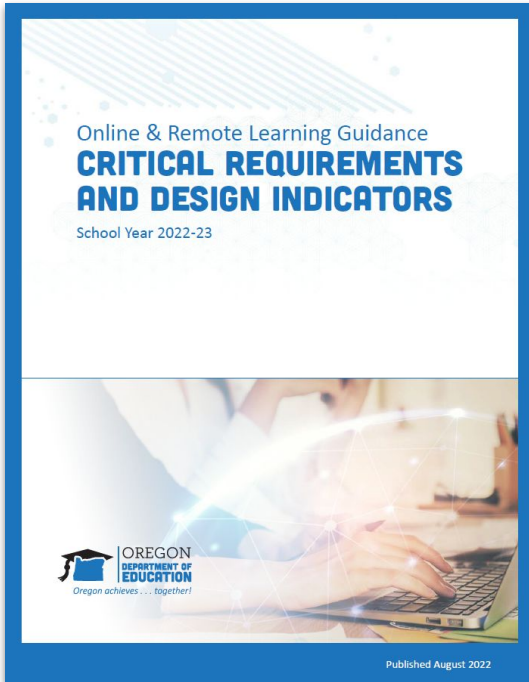
Landscape of Online and Remote Learning in Oregon: *Academic Outcome Ranges*



Landscape of Online and Remote Learning in Oregon: *Academic Outcomes by Race/Ethnicity*



Online and Remote Learning Guidance



Oregon Department of Education

Purpose:

1. to provide clarity regarding existing federal and state requirements and policies for online and remote schools
2. to share design indicators and provide tools for school and district operators and leaders to use in planning for continuous improvement and innovation.

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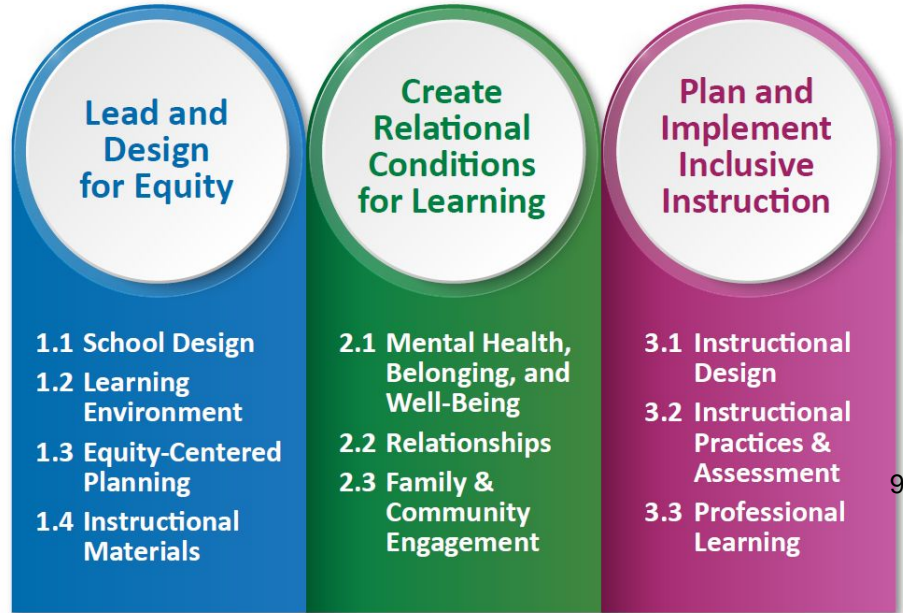
8

What are the minimum critical requirements and policies for online and remote schools/programs?

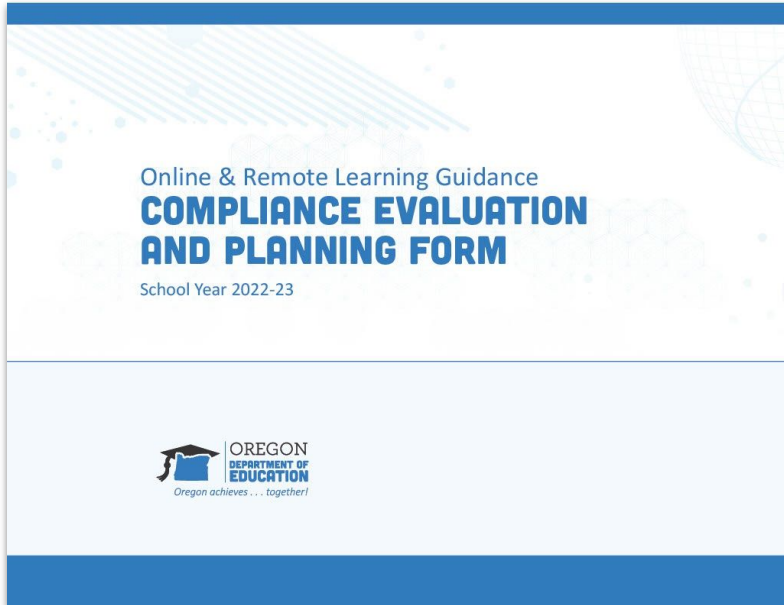
Pillars

Design indicators

Questions for design and continuous improvement embedded in a tool with aligned requirements and policies.



Compliance and Evaluation Planning Form: Tool for Reflection

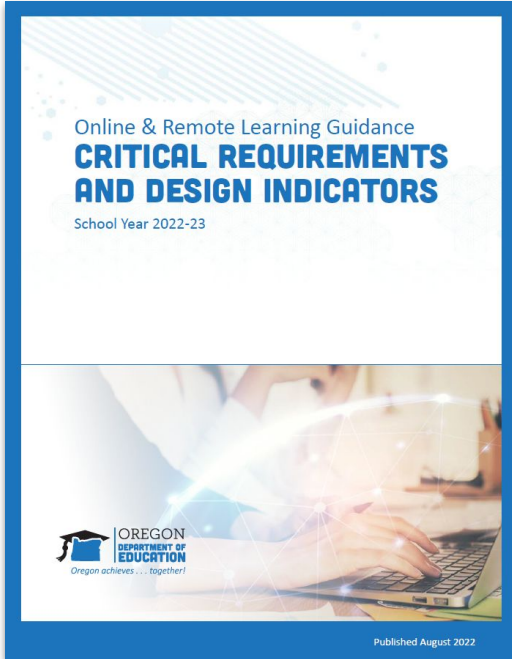


This form is designed to help school and program leaders and operators in determining whether or not they are:

1. Meeting compliance with focus requirements and policies
2. Determining evidence needed and the next steps for continuous improvement.

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Thank you



Department will republish the guidance for 2023-24 and beyond.

Department staff are available to support schools and districts starting up or operating online and remote schools or programs.

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<p>SUBJECT: Online & Remote Learning Guidance</p> <p>STAFF NAME & OFFICE: Kate Pattison, Charter School Specialist, Director’s Office; Ken Greenbaum, Director of Digital Learning and Allie Ivey, Digital Learning Specialist, Office of Teaching and Learning</p> <p>Update to the Board on the Department’s first non-emergency guidance for online and remote learning.</p>	<p><input checked="" type="checkbox"/> Informational Presentation</p> <p><input type="checkbox"/> Written Report</p>
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BACKGROUND

Remote learning programs have expanded across Oregon for well over a decade in the form of specialized courses available to students in rural communities, hybrid and virtual options for local schools, virtual public charter schools, and home-based options. Most recently, remote learning has become a familiar part of many students’ education through the COVID-19 pandemic response. Even with a return to in-person learning, online and remote learning will continue to play a role in K-12 public education.

In 2021, the Department started an engagement process to seek input on how to establish quality assurance program standards for online and remote learning. As staff conducted the engagement sessions and conducted research, it became clear that the current education standards across Division 22 and other statutes or rules sufficiently applied to all of Oregon’s public online and remote schools. Establishing new standards at this time would be redundant. Therefore, the Department pivoted and created guidance to support schools and districts in designing and implementing online and remote schools that are compliant with the current standards.

The result was the Department’s first-ever, non-emergency [Online and Remote Learning Guidance: Critical Requirements and Design Indicators](#). Through a [year-long community engagement process](#) and support from the [Remote Learning Advisory Committee](#), the Department identified the essential elements of designing equitable, relational, and inclusive online and remote schools and programs that are in compliance with existing policies and requirements. These essential elements are the policies and ideas that school leaders and operators should be most attuned to when planning to open or currently operating an online or remote school or program. This guidance organizes these essential elements in the following ways:

- **Pillars** that center student experience and instructional quality and are general categories of design.
- **Design Indicators** within each Pillar that elevate critical elements of online and remote school design.
- **Questions for Design and Continuous Improvement** for each Design Indicator to assist online and remote school operators in designing and evaluating for compliance with current policies and requirements while also considering areas for continuous improvement.
- **Focus Requirements and Policies** associated with each Design Indicator. These are the most important laws and rules to attend to when designing and operating online and remote schools and programs in Oregon. The policies included are not exhaustive and do not include every law or policy that is required for public schools in Oregon. This guidance and the requirements and

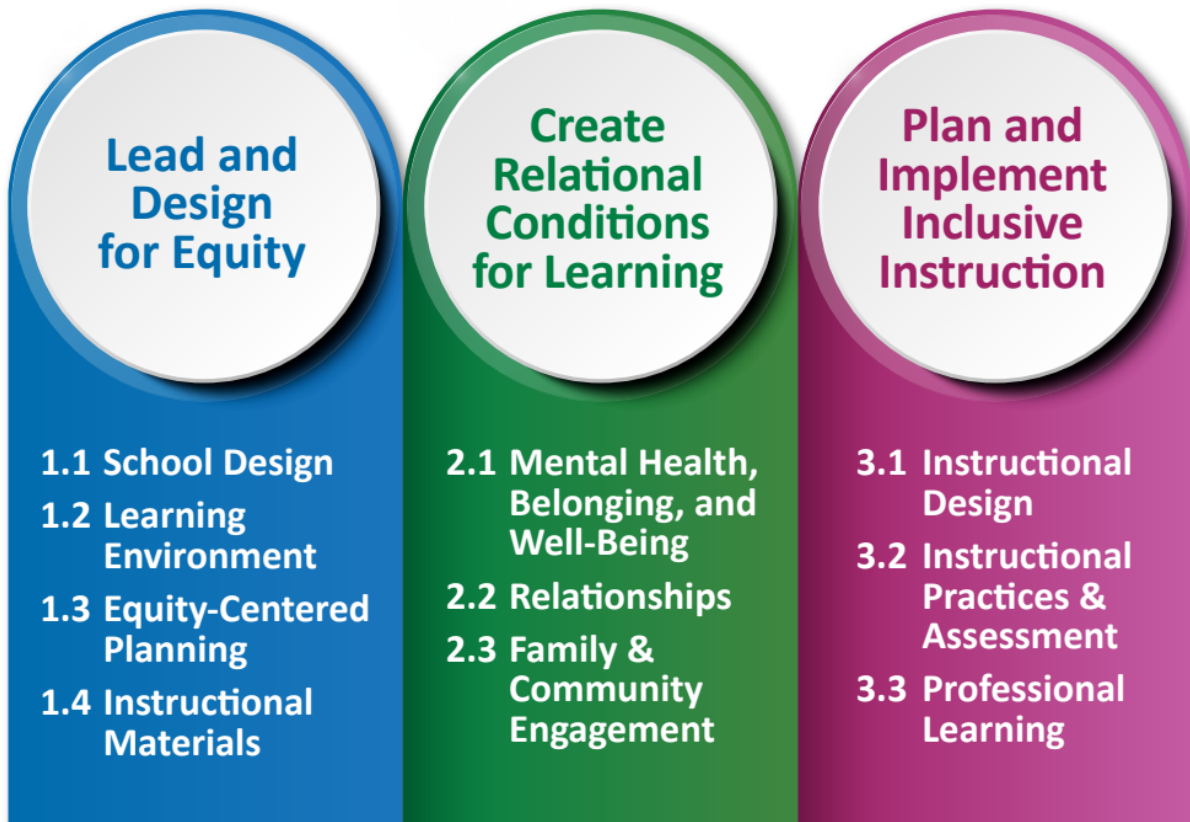
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policies listed do not replace Division 22 standards or requirements written into charter school laws.

- **The Compliance Evaluation and Planning Form** which organizes the above elements into a format to facilitate planning and usability. This form will help school and program leaders and operators in determining whether or not they are meeting compliance with focus requirements and policies as well as determining evidence needed and next steps for continuous improvement.



The guidance was released in August 2022 for the 2022-23 school year with the expectation that schools and districts will start using it as a tool to guide their work voluntarily. The Department will update the guidance based on feedback and republish for the 2023-24 school year and beyond.

POLICY ISSUE OR CONCERNS

- Schools and districts are not currently required to use the guidance or complete the Compliance Evaluation and Planning Form.
- The Compliance Evaluation and Planning Form can be used by school districts to ensure compliance with Division 22 standards relating to their online and remote schools or programs.
- Virtual Public Charter Schools can use the Compliance Evaluation and Planning Form to document compliance with the critical rules and statutes related to online and remote learning. Charter school sponsors can require the use of the guidance and form.

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EQUITY IMPACT ANALYSIS

The purpose of this work is to ensure that all students, especially those most historically and systemically marginalized, have access to the benefits of a remote learning model within a system that serves all students equitably. Additionally, the findings presented in the [2017 Secretary of State Audit: Stronger Accountability, Oversight, and Support Would Improve Results for Academically At-Risk Students in Alternative and Online Education](#) provide a critical opportunity to respond to the growing increase in remote learning options and enrollment in remote schools and programs across Oregon through the development of a framework of standards for current and potentially new policy for remote/online learning.

The following beliefs support this vision for educational equity within distance and online learning throughout Oregon. All students accessing remote learning options in Oregon deserve a high-quality education, which includes:

- Access to **high-quality instruction** where both the teacher and education leaders play an invaluable role in student learning and well-being.
- A **sense of belonging and safety** that is inclusive of students of color, including students who are African-American/Black, Alaska Native and American Indian, Asian Pacific Islander, Refugee, Latino/a/x, Compact of Free Association (COFA) citizens, students who are emergent bilingual (English Learners), students of migrant and farmworker families, students receiving services under Section 504 or IDEA, students who are neurodivergent, students experiencing disability, and students who are LGBTQ2SIA+, where students' intersecting identities are honored and affirmed within the classroom and school culture by educators and the whole school community.
- **Culturally appropriate and anti-racist curriculum and quality instructional materials** aligned to Oregon content standards;
- **Access to school- or district-provided devices, digital resources, and connectivity** that are conducive to remote or online learning.
- Accommodations, modifications, differentiated instruction, and research-based strategies **address the strengths and needs of all students** including students experiencing disabilities, and emergent bilingual students.
- Access to a **well-rounded education** including college and career planning, health, arts, CTE, physical education, music, world language, etc.).
- Intentional and consistent opportunities for **peer engagement, social emotional learning, mental health services**, and access to support from educators.
- Culmination of learning in our Oregon K-12 system leads to a **diploma and the readiness** and disposition for postsecondary pursuits.

In 2022, the Department published a [Data Snapshot about Virtual Learning in Oregon](#). The data is quantitative in nature and focused on enrollment patterns and academic outcomes. The report demonstrates multiple inequities that schools, districts, and the state should attend to going forward.

ATTACHMENTS

Attachment 1: [Online & Remote Learning Guidance](#)