



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 Zoom Thursday, January 18, 2024

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

Time: 10:10 AM

2. Public Comment

Time: 10:40 AM

A. The State Board of Education will hold space for virtual public comment. 3
Individuals must register to provide virtual comment. Written public comment received will be posted to BoardBook.

3. Consent Agenda

Time: 10:55 AM

A. Approval of Criteria for Evaluation of Health Education Instructional Materials 5

4. Second Readings

A. Proposed Federal Appeals Process Updates 8

Time: 11:00 AM

Liz Ross, Office of Teaching, Learning, and Assessment

5. First Readings

A. Rule Changes for the Oregon School Capital Improvement Matching Program and Technical Assistance Program 24

Time: 11:15 AM

Leanna Heiman, Office of Finance and Information Technology

B. Native American Mascot Agreement: Rogue River School District and the Confederated Tribes of the Siletz Indians 80

Time: 11:30 AM



OREGON
DEPARTMENT OF
EDUCATION

BOARD of EDUCATION

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.

Emily Nazarov, Office of the Director

6. **Break for Lunch**

Time: 12:00 PM

7. **Adoptions**

A. Policies and Procedures Updates

101

Time: 1:00 PM

8. **Adjourn**

January 17, 2023

At its Jan. 18 meeting, the Oregon State Board of Education will vote to implement illegal speech restrictions on members of the public providing public comment.

The board's new policies and procedures would allow them to silence speech. They will be the judge and be able to silence speech they deem "unclear" or "unkind" or "minimizes or causes harm to anyone else's identity" or doesn't "center and support the needs or students".

See full language [here](#):



Public Comment at Board Meetings

Overview

The State Board of Education values public input. The public comment process provides space for testimony on items before the Board, or issues that may need attention. It does not allow for an opportunity for dialogue between the speaker, Board, or Director nor does it replace existing complaints processes. It does allow the State Board of Education to actively listen to and reflect on public feedback. Any Board member may request that the Chair and/or ODE Director respond to public comment received. The Board has no supervisory authority and will not hear complaints concerning individual personnel. Complaints about individual ODE employees should be submitted to the Deputy Superintendent's office as a personnel matter.

The Board holds this public comment space with care for Oregon's students at the forefront of mind. The Board is here to provide an example to youth in both agreement and disagreement. The following should be understood:

- Clear and kind language - the Board expects language that centers and supports the needs of students.
- No place for bias or hate - the Board will not tolerate profanity or language that minimizes or causes harm to anyone else's identity. If such language occurs, the speaker will forfeit the remainder of their time, be removed from the meeting, and be provided an alternate space to observe.
- No place for violence or threats - the Board will take any threats or threatening language seriously and will follow-up with law enforcement as appropriate.

I am writing to sound the alarm about this board's frankly tyrannical and illegal abuse of power in attempting to adopt these new policies.

If adopted, the board would be allowed to silence and remove parents by claiming parents' comments—and I quote—"cause harm to anyone else's identity" and "don't center and support the needs of students".

Let that sink in. The board chair could cut the mic by claiming a parent isn't supporting the needs of students.

For example...

If a parent criticizes the board's lax student discipline policies that are causing dramatic increases in student violence, the board chair could silence the parent by claiming they aren't supporting the needs of violent students.

Or, if a parent criticizes the board's explicit sex ed curriculum requirements that are causing dramatic increases in students seeking dangerous genital mutilation procedures, the board chair could call the parent a "transphobe" and silence the parent by claiming they are "harming someone's identity".

This is fascist stuff, folks.

And it is rules for thee and not for me. The board wants these speech restrictions on parents but not on themselves or their invited guests from the Oregon Department of Education.

What brought this rule change on? I've reviewed past board meeting recordings and found no rude comments from parents. However the board chair herself was quoted in the Oregonian in September as having called parents—and I quote—"a cadre of bad actors".

Ironically, those causing the grave harm to students' identity and not supporting the needs of students are the board and the ODE themselves.

It's frankly disgusting that the board is fraudulently claiming this policy is to protect students when in fact its true purpose is to protect the board and their bad ideas from public debate.

These policy changes need to be scrapped and the board should be ashamed of themselves for trying to push unconstitutional speech restrictions on parents.

Sincerely,

Mary Miller
Independent Women's Network Western Oregon Chapter Chair

Oregon State Board of Education

December 7, 2023

AGENDA ITEM: Instructional Materials Adoption Criteria for Health Education (OAR 581-011-0065)

<p>SUBJECT: Instructional Materials Adoption Criteria for Health Education(OAR 581-011-0065)</p> <p>STAFF NAME & OFFICE: Alexa Pearson, Aujalee Moore, Suzanne Hidde, Sasha Grenier Office of Teaching, Learning, and Assessment</p> <p>Criteria for the selection and adoption of instructional materials for Health Education were developed by the ODE Health Education Specialist and Comprehensive Sexuality Specialist, and reviewed and revised by a health education criteria development committee. These criteria are being presented to the State Board of Education for approval.</p> <p><input type="checkbox"/> New Rule <input type="checkbox"/> Amend Existing Rule <input type="checkbox"/> Repeal Rule</p>	<p><input type="checkbox"/> First Reading <input type="checkbox"/> Presentation <input type="checkbox"/> No Presentation</p> <p><input checked="" type="checkbox"/> Action <input type="checkbox"/> Temp Rule <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> No Presentation</p>
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BACKGROUND

The State Board of Education has the responsibility of approving criteria for the evaluation and adoption of submitted instructional materials (OAR 581-011-0065). The current contracted period for instructional materials in health education was established for the years 2018-2025. The current health education content standards were adopted by the State Board in October 2023. The next phase in this process is for ODE to develop new adoption criteria to ensure that instructional materials align with the newly revised standards and current instructional practices.

In 2021, members of the Standards and Instructional Support Team, along with the Assessment Team and the Office of Equity, Diversity, and Inclusion developed a foundation for consistent and cohesive criterion that is grounded in the ODE Equity Stance and applies across content areas. This framework was adopted by the State Board of Education and implemented in the 2022 mathematics instructional materials evaluation and 2023 science instructional materials evaluation.

In October 2023, following the guidelines provided in OAR 581-011-0055, ODE staff convened a diverse committee of teachers, curriculum specialists, and other content area experts in health education to review, revise, and recommend the draft criteria attached to this docket. The 2023 Health Education Instructional Materials Criteria Committee used ODE’s criteria framework, as well as state and nationally developed health education criteria, to tailor and align Oregon’s instructional materials criteria to the adopted 2023 Oregon Health Education Standards.

The draft adoption criteria for health instructional materials was supported by the committee and finalized on November 16, 2023. Upon adoption by the State Board, this criteria will be used in the evaluation of K-12 health education instructional materials submitted for adoption.

Oregon State Board of Education

December 7, 2023

AGENDA ITEM: Instructional Materials Adoption Criteria for Health Education (OAR 581-011-0065)

SUMMARY OF PREVIOUS BOARD ACTION

The last criteria was presented in 2017. This is the first read for the updated criteria.

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

There are no known policy questions raised due to this request.

EQUITY IMPACT ANALYSIS

The review and revision of the adopted instructional materials adoption criteria is an opportunity to set a vision of what equitable teaching and learning looks like within adopted materials in K-12 health education. Health Education works to center students' cultures, interests, values, and identities as they learn how to live healthy, safe, and flourishing lives as young people and adults, in relationships with one another, in communities, and in the world.

Health education is a cornerstone of educational equity. Health Education supports young people to gain age-appropriate knowledge and skills that foster healthy behaviors, empowered decision-making, and a holistic understanding of their role in promoting individual, family, and community safety and well-being. The Health Education Standards intentionally support instruction that affirms historically and currently underserved and underrepresented student populations to ensure an equitable opportunity for all students to feel included and to receive health information that is relevant to their individual and community identities, and develop skills that will serve them throughout their lives. The Health Education Standards reflect the goals of Every Student Succeeds Act (ESSA), the ODE Equity Stance and the Student Success Act (SSA) plans. Research shows that when health education is comprehensive, inclusive, skills-based, and scaffolded across grades it leads to improved school climate, individual academic achievement, and long lasting intergenerational benefits.

The instructional materials review criteria supports this vision for equitable access to health education for all Oregon students within adopted materials in our state. This vision is explicitly prioritized in Part 2 (Equitable Student Engagement and Cultural Pedagogy Criteria) of the updated health instructional materials adoption criteria. Part 2 of the updated criteria requires materials to include opportunities for student-driven learning, supported by asset-based and culturally-responsive instruction (or teaching).

The Oregon Department of Education recognizes that student health and safety are the cornerstone of education and that all students are entitled to a high-quality educational experience, including instructional materials that are free from discrimination or harassment based on perceived race, color,

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AGENDA ITEM: Instructional Materials Adoption Criteria for Health Education (OAR 581-011-0065)

religion, gender identity, sexual orientation, disability, or national origin, and without fear or hatred, racism or violence.

FISCAL ANALYSIS

No fiscal impact.

EFFECT OF A "YES" OR "NO" VOTE

A "yes" vote will provide the Oregon Department of Education and Oregon school districts with criteria for the evaluation and adoption of Health education instructional materials that are aligned to the newly revised Health education standards.

A "no" vote will mean that the Oregon Department of Education and school districts will use previously State Board approved adoption criteria from 2017 for health education instructional materials. This will result in evaluation of instructional materials using outdated criteria and standards.

STAFF RECOMMENDATION

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

ATTACHMENTS

Attachment 1: Adoption Criteria for K-12 Health Education Instructional Materials

Oregon State Board of Education

January 18, 2024

AGENDA ITEM: 4.A.

<p>SUBJECT: Federal ESEA Program Appeals Process (Permanent Rule) STAFF NAME & OFFICE: Liz Ross, Director Federal Systems, Office of Teaching, Learning, and Assessment</p> <p>The Oregon Department of Education (the Department) Federal Systems Team administers formula and competitive federal programs under the Every Student Succeeds Act, the Bipartisan Safer Communities Act, and the American Rescue Plan-Homeless Children and Youth programs. Federal law requires that ODE provide grant recipients who are aggrieved by the Department’s final action under its administration of these programs with the right to request a hearing. This rule establishes such a process.</p> <p><input checked="" type="checkbox"/> New Rule <input type="checkbox"/> Amend Existing Rule <input type="checkbox"/> Repeal Rule</p>	<p><input type="checkbox"/> First Reading <input 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

1. History: Section 432 of the General Education Provisions Act (GEPA), codified at 20 USC 1231b-2(a), provides Local Education Agencies (LEAs) “aggrieved by the final action” of a State Education Agency (SEA) with the right to “request a hearing” alleging a violation of the laws applicable to the respective federal program being administered by the SEA. The same federal statute then goes on to require: “Within thirty days after it receives such a request, the [SEA] shall hold a hearing on the record and shall review such final action. No later than ten days after the hearing, the [SEA] shall issue its written ruling, including reasons therefor.” (See also 34 CFR 76.401.)

As Oregon’s SEA, the Oregon Department of Education (the Department) administers Oregon’s formula and competitive federal programs under the Elementary and Secondary Education Act, including:

- Title I, Part A (Improving the Academic Achievement of the Disadvantaged)
- Title I, Part C (Migrant Education Program)
- Title I, Part D (Prevention and Intervention Programs for Neglected, Delinquent or At Risk Youth), Subpart 2,
- Title II, Part A (Preparing, Training, and Recruiting High-Quality Teachers, Principals, or Other School Leaders),
- Title III, Part A (Language Instruction for English Learners and Immigrant Students)
- Title IV, Part A (Student Success and Academic Achievement),
- Title IV, Part B (Nita M. Lowey’s 21st Century Community Learning Centers and After School Safety and Enrichment for Teens Programs)
- Title V, Part B (Rural Low Income Schools),
- McKinney-Vento Homeless Education and,

Oregon State Board of Education

January 18, 2024

AGENDA ITEM: 4.A.

- Foster Care Student Educational Stability.

In addition to the grants administered under ESEA, Oregon administers the Stronger Connections Grant authorized under the Bipartisan Safer Communities Act, and the American Rescue Plan-Homeless Children and Youth programs. As a result, the programs listed above are subject to the federal requirements described above.

2. Purpose: This proposed rule establishes the process for applicants, or grantees (including districts and ESDs) that are aggrieved by a final action under the Department’s administration of the federal grants program to request a hearing, as required under federal law.
3. Does the board have any areas of discretion or is this strictly mirroring statute? No, the board does not have any areas of discretion.
4. Stakeholder voice/input (individual and collective i.e., groups): This rule is a technical rule that establishes a hearing process that meets the requirements under both governing federal and state law. As such, the Department has little discretion in shaping the process, meaning there is little room to consult with impacted groups and apply their input.

SUMMARY OF PREVIOUS BOARD ACTION

1. The state board adopted emergency temporary rules for Title I-C in April 2023 and rules for the remaining title programs in June 2023. The temporary rules expired and ODE is bringing forth proposed permanent rules that outline a singular process for all ESSA title programs.
2. The State Board received a written-only first read of this item at their December 2023 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:

After receiving feedback from U.S. Department of Education, we removed the ability for the impartial panel to send the appeal to OAH for review given the timeline constraints under section 5 of the proposed rule. Instead, ODE will hold the review based on the evidence submitted.

POLICY ISSUE OR CONCERNS

This is a technical rule that establishes a hearing process that meets the requirements under both governing federal and state law. As a result, the Department has little discretion in shaping the process, meaning there is little room to consider policy issues or consult with impacted groups and apply their input.

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AGENDA ITEM: 4.A.

One minor policy issue the Department considered in developing this temp rule was whether to retain authority for issuing the final order following the hearing or grant that authority to the Administrative Law Judge presiding over the hearing. Due to considerations around timeline and the Department’s capacity, the Department chose to grant this authority to the Administrative Law Judge.

EQUITY IMPACT ANALYSIS

Any final action taken by the Department against an applicant or grantee of federal funds as part of its administration of the Federal Education Program will have a direct impact on the students and families served by that applicant or grantee. The Department strives always to ensure its actions advance equity and opportunity for historically underserved populations. The hearing process established by this rule affords LEAs administering a local or regional program funded through these programs the opportunity to appeal a final action taken by the Department that the LEA believes adversely affects the LEA, and by extension, the students it serves. As such, the rule plays an essential part in ensuring due process in the Department’s administration of Oregon’s Federal Education Program under ESEA, Bipartisan Safer Communities Act, and the ARP-HCY programs.

FISCAL ANALYSIS

Should an applicant or grantee exercise its right to request a hearing under the process established by this rule, these costs would be borne by the specific Program that is aggrieved. Costs would be covered using non-federal funds.

Applicants or grantees choosing to exercise their right to request a hearing under this rule would be responsible for bearing the associated costs. Costs must be covered using non-federal funds.

EFFECT OF A “YES” OR “NO” VOTE

A Board vote approving this rule would result in the immediate creation of a process by which aggrieved applicants or grantees could request a hearing contesting a final action by the Department under its administration of Federal Education Program, thereby complying with federal requirements.

A Board vote rejecting this temp rule would mean that the Department would remain out of compliance with the federal requirement to provide aggrieved applicants or grantees with the right to request a hearing.

STAFF RECOMMENDATION

Approve Approve next month No recommendation at this time
Prompted by: State law changes Federal law changes other (*out of compliance with existing federal law*)

ATTACHMENTS

Oregon State Board of Education

January 18, 2024

AGENDA ITEM: 4.A.

Attachment 1: Federal Appeals Rules

Oregon State Board of Education

January 18, 2024

AGENDA ITEM: 4.A.

OAR XXX-XXX-XXXX

- (1) The appeal procedures required by this rule apply to appeals of the Oregon Department of Education (the Department) decisions affecting local education agencies participating in the following federal programs:
 - (a) Title I, Part A of the Elementary and Secondary Education Act;
 - (b) Title I, Part C of the Elementary and Secondary Education Act;
 - (c) Title I, Part D, Subpart 2, of the Elementary and Secondary Education Act;
 - (d) Title II, Part A of the Elementary and Secondary Education Act;
 - (e) Title III, Part A of the Elementary and Secondary Education Act;
 - (f) Title IV, Part A of the Elementary and Secondary Education Act;
 - (g) Title IV, Part B of the Elementary and Secondary Education Act;
 - (h) Title V, Part B of the Elementary and Secondary Education Act;
 - (i) McKinney-Vento Homeless Education;
 - (j) Stronger Connections Grant authorized under the Bipartisan Safer Communities Act;
 - (k) American Rescue Plan-Homeless Children Youth Programs I and II; and
 - (l) Other “applicable programs” as defined in 20 U.S.C. 1221(c)(1).

- (2) A local education agency subject to these rules may appeal the following:
 - (a) The disapproval, in whole or in part, of a new application for participation or an application for renewed participation;
 - (b) A failure to approve a new application for participation or an application for renewed participation;
 - (c) The withholding of participation or funding under an applicable program;
 - (d) The failure to provide funds in amounts that accord with the requirements of specific laws and regulations;
 - (e) An order, in accordance with a final State audit resolution determination, to repay misspent or misapplied Federal funds; and
 - (f) The termination of further assistance.

- (3) The Department shall notify the local education agency (Appellant) in writing of the grounds upon which the Department based its action identified in subsection (2) of this rule. The notice must also state the procedures for requesting an appeal of the action. Notice means a letter sent by certified mail, return receipt (or the equivalent private delivery service) or by email, that describes an action or taken by the Department. The notice is considered to be received by the Appellant when it is delivered or sent by email. If the notice is undeliverable, it is considered to be received by the Appellant five days after being sent to the Appellant’s last known mailing address, facsimile number, or email address.

- (4) A request for appeal of an action identified in subsection (2) of this rule must be in writing and must be made by the Appellant affected by such action. The Department must receive the request for appeal no later than 30 calendar days from the date the Appellant received the notice of Department action. The request for appeal must allege in pleadings, affidavits, and supporting documents that the Department violated State or Federal law, rules, regulations, or guidelines governing the federal program. The Department shall deny any request for appeal that fails to:
 - (a) State the nature of the Appellant’s interest;

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AGENDA ITEM: 4.A.

(b) Assert the facts showing how the Appellant is adversely affected or aggrieved by the Department's action; and

(c) Allege that the Department violated State or Federal law, rules, regulations, or guidelines governing the federal program.

(5) For appeals under sections 2(a) and 2(b) of this rule, a hearing on the record will be conducted by an impartial panel designated by the Oregon Department of Education. The impartial panel will conduct the hearing entirely on the basis of documentation submitted.

(6) Appeals under sections 2(c), 2(d), 2(e), and 2(f) of this rule shall be conducted as a contested case hearing under ORS 183.411 to 183.471 and the Attorney General's Model Rules of Procedure under the Administrative Procedure Act in effect on January 1, 2012. The hearing shall be conducted by and under the control of the Administrative Law Judge of the Office of Administrative Hearings that is assigned to the case and must be held within 30 days of the date of receipt by the Department of the request for appeal. The Administrative Law Judge may set reasonable time limits for oral presentation and may exclude or limit cumulative, repetitious, or immaterial matter.

(a) The Appellant bears the burden of proof to show that the Department's action identified in subsection (1) of this rule constitutes a violation of State or Federal law, rules, regulations, or guidelines governing the Federal Education Program.

(b) Evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible. Irrelevant, immaterial or unduly repetitious evidence shall be excluded.

(c) As soon as practicable after the hearing, but in no case later than five calendar days after the hearing, the Administrative Law Judge shall prepare a proposed order and serve the proposed order on the Department and the Appellant.

(d) No later than ten calendar days after the hearing, the Department shall either adopt the proposed order or prepare a new final order.

20 USC 1231b-2

34 CFR 76.401



Federal Programs Appeals Rules

Overview

Federal law requires that ODE provide grant recipients who are aggrieved by the ODE's final action under its administration of any federal grant programs with the right to request a hearing.

ODE's continuous improvement process has identified a gap in meeting this requirement for certain federal title grant programs that ODE administers.

This rule establishes such an appeals process for the ESSA and other federal programs so that we are in compliance with federal GEPA requirements.

Federal Requirements for Appeals Process

Section 432 of the General Education Provisions Act (GEPA):

- Provides any applicant or recipient “aggrieved by the final action” of a State Education Agency (SEA) with the right to “request a hearing on the record” alleging a violation of the laws applicable to the respective federal program being administered by the SEA. ¹⁶
- Requires that, “Within thirty days after it receives such a request, the [SEA] shall hold a hearing on the record and shall review such final action. No later than ten days after the hearing, the [SEA] shall issue its written ruling, including reasons therefor.”

Purpose of this Proposed Rule

The purpose of this proposed rule is to enact a formal process, as well as provide clarity and transparency, should an applicant or grantee have a change in:

- Funding status, or
- Be denied an application to a competitive grant program.

This rule is a technical fix to ensure alignment with federal grant management requirements.

Proposed Rule: Which Programs Apply

The following programs are under the proposed OAR:

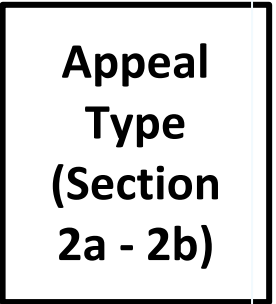
- All federal Title programs under ESSA,
- McKinney-Vento Homeless Education,
- Stronger Connections Grant authorized under the Bipartisan Safer Communities Act, and
- American Rescue Plan-Homeless Children Youth Programs I and II

Proposed Rule: What can be appealed?

A local education agency (LEA) may appeal the following:

- A. The disapproval, in whole or in part, of a new application for participation or an application for renewed participation;
- B. A failure to approve a new application for participation or an application for renewed participation;
- C. The suspension of participation;
- D. The failure to provide funds in amounts that accord with the requirements of specific laws and regulations;
- E. An order, in accordance with a final State audit resolution determination, to repay misspent or misapplied Federal funds; and
- F. The termination of further assistance

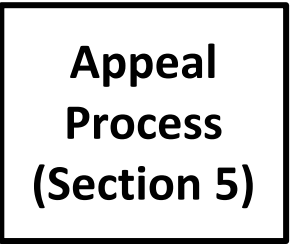
Proposed Rule: The Process (2a – 2b)



**Appeal
Type
(Section
2a - 2b)**

(a) The disapproval, in whole or in part, of a new application for participation or an application for renewed participation

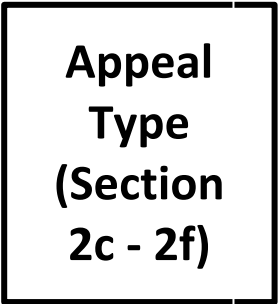
(b) A failure to approve a new application for participation or an application for renewed participation



**Appeal
Process
(Section 5)**

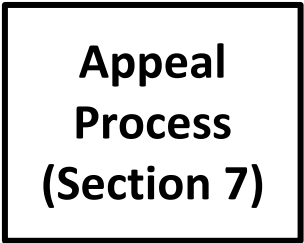
A hearing on the record will be conducted by an impartial panel designated by the Oregon Department of Education. The impartial panel will conduct the hearing entirely on the basis of documentation submitted.

Proposed Rule: The Process (2c – 2f)



**Appeal
Type
(Section
2c - 2f)**

- (c) The suspension of participation
- (d) The failure to provide funds in amounts that accord with the requirements of specific laws and regulations;
- (e) An order, in accordance with a final State audit resolution determination, to repay misspent or misapplied Federal funds; and
- (f) The termination of further assistance.



**Appeal
Process
(Section 7)**

The hearing shall be conducted by and under the control of the Administrative Law Judge of the Office of Administrative Hearings and must be held within 30 days of the date of receipt by the Department of the request for appeal

Changes in Response to Public Input

Feedback heard:

- Overall, coordinators are in favor of the rule and believe the language is clear, concise and transparent.
- Coordinators want ODE to engage in multiple methods of contact when alerting a district of their right to appeal.
- Coordinators have concerns about the 30-day timeline for action.

Language updated:

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- ODE removed the ability for the impartial panel to refer the appeal to OAH in cases where additional evidence is needed. The change was made because the U.S. Department of Education informed ODE that all rulings must occur within 30 days of notice of appeal. It is challenging for both the impartial ODE panel to conduct a hearing under Section (5) and then refer it to OAH for a hearing under (5)(a)-(c)—all within 30 days.
- The impartial panel at ODE will conduct a hearing on application denials/non-approvals based on the documentation submitted.

Language retained

- All other language was maintained

Thank you

Liz Ross

Director, Federal Systems Team

liz.ross@ode.oregon.gov

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Oregon State Board of Education

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AGENDA ITEM:

<p>SUBJECT: Updates to the Oregon School Capital Improvement Matching Program’s and Technical Assistance Program’s OARs OAR # 581-027-0010 / Calculations for OSCIM Program Priority List OAR # 581-027-0015/ Calculations for OSCIM Program Funding Formula OAR # 581-027-0030 / Technical Assistance Grant Program Procedures</p> <p>STAFF NAME & OFFICE: Michael Elliott and Leanna Heiman, OFIT Office of School Facilities</p> <p>SB 285 increases the amounts of both the OSCIM and TAP grants. SB 285 also allowed ESDs to apply for the TAP grants. The OARs need to be updated to align with SB 285.</p> <p>OAR 581-027-0050 will be updated to clarify application requirements.</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 checked="" type="checkbox"/> Action <input type="checkbox"/> Temp Rule <input checked="" type="checkbox"/> Presentation <input type="checkbox"/> No Presentation</p>
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BACKGROUND

Since 2016, the Oregon School Capital Improvement Matching (OSCIM) Program has been awarding matching grants to school districts to help them pass general obligation bonds for capital improvements. Grant amounts, \$4 -\$8 million, are based on a funding formula and districts apply several months in advance of an election. Depending on the amount of funding available, their place on the priority list and the time in which their application is received, districts are given a state-match funding commitment that they can advertise as part of their bond campaign to incentivize their constituents to vote in favor of the bond measure.

Due to increasing costs, Senate Bill 285 increased the state’s matching funds for OSCIM grants to a minimum of \$6 million and a maximum of \$12 million per grant. SB 285 also changes the allocation of funds from 60% to the priority list and 40% to the first-in-time list to 66% and 34% respectively.

The Technical Assistance Program (TAP) awards competitive grants to school districts for Facility Assessments, Long-Range Facility Planning, Seismic Assessments, and Environmental Hazard Assessments. SB 285 increases the maximum size of these grants to \$40,000. Also, SB 285, allows ESD to apply for the TAP grants.

The TAP awards the grants to school districts and ESD using a preference point system. This ensures that the districts with the most need are offered a greater opportunity to receive the grant funds. School districts can receive up to 6 preference points for poverty percentage, school size, school district size, and relevant building characteristics. Because SB 285 allows ESDs to receive TAP grants they will be able to receive 5 preference points.

Oregon State Board of Education

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AGENDA ITEM:

The preference points specific to ESDs were designed to align with the existing preference points for School Districts. The ESD preference points also include points for high levels of poverty, smaller districts served, and relevant building characteristics. The formulation process involved input from the Office of School Facilities' technical advisory group, a diverse panel consisting of architects, engineers, district officials, and financing experts. Their collaborative efforts aimed to ensure that the proposed preference points effectively capture the needs of both ESDs and School Districts.

Not related to Senate Bill 285, are the rule changes to **OAR 581-027-0050** Assessor Certification Program. This is a minor update to the rule that further clarifies the qualifications of prospective applicants to the Assessor Certification Program managed by TAP. This additional language provides greater transparency to the program's application review and selection process.

SUMMARY OF PREVIOUS BOARD ACTION

No previous action has been taken.

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 current preference points (criteria) used by TAP for ranking grant applications from school districts are not feasible for ESDs. Based on feedback from our technical advisory group and the Rules Advisory Committee it was determined that ESDs would still be competitive with 5 preference points.

The available funding for TAP remains unchanged, so this could potentially mean that fewer grants are awarded. For the last few years, TAP has awarded 85-100 grants on average with a total budget of approximately \$2,000,000 to \$2,500,000. The increase in grant amounts to \$40,000 for the Facility Assessment and Long-Range Facility Planning grants could reduce the total number of grants awarded to 65-85 a year.

The Legislature authorizes the funding for the OSCIM Program each biennium. The 2023 Legislature allocated \$100,000,000 for OSCIM grants for the 2023-25 biennium, plus \$26,843,870 that rolled over from the 2021-23 biennium. With the increased grant amounts, the OSCIM program may award fewer grants, but not every district that applies to the OSCIM program will pass their bonds. For the last few elections, the program has been undersubscribed and has been able to offer funding commitments to every applying district in advance of the election and offer the districts that do pass their full match. By increasing the OSCIM grant amounts, the program will offer a better incentive for voters to vote yes on their district's bond measure.

Oregon State Board of Education

January 18, 2024

AGENDA ITEM:

EQUITY IMPACT ANALYSIS

These changes provide better resources to districts to address deferred maintenance and improve school facilities across the State which will have an impact on all student groups. Both the OSCIM Program and TAP prioritize giving grants to small districts with high poverty.

For small, rural, and poor school districts in Oregon, the increased grant amounts can be used to greater advantage. For TAP, many larger and urban districts can pay for Facility Assessments and Long-Range Facility Planning out of their operating budgets. The TAP grants help offset costs but do not make or break the assessment and planning efforts. For smaller districts with greater poverty, districts are reliant on the TAP grants to cover all the costs associated with the facility assessment and long-range facility plan. The grant amount of \$20,000 for the Facility Assessment and \$25,000 for Long-Range Facility Planning need to be increased to provide these disadvantaged districts with sufficient funding to cover most if not all the costs associated with a good long-range facility plan which is the basis of a district's bond campaign.

These grants also pave the way for districts to apply to the OSCIM program. The Facility Assessment and Long-Range Facility Plan are required components of the OSCIM grant application. With increased funding available through the OSCIM program, districts will have an increased chance of passing their bonds. For smaller districts in Oregon, this increase in funding allows them to get more construction projects covered by state funding if their bond measures pass.

The main goal of the OSCIM Program's Priority List is to provide districts that have high poverty rates and low assessed values a better chance of securing state matching grants. This will ensure that the OSCIM Program is providing equity across the state. The Priority List determines both the rank order in which each district would be awarded funding should a local GO bond issue be approved and determines the amount of funds that could be awarded to each district. The changes to the administrative rule will mean that a greater portion of districts will be given a funding commitment based on the Priority List vs. First-In-Time. The changes in percentages to 66% Priority List and 34% First-in-time will help ensure districts with greater need are given priority.

For TAP, the objective of the preference points used in ranking applications is to give priority to districts with greater needs. Because the program provides 4 distinct grant types, a set of preference points has been developed for each grant to give priority based on factors such as high poverty, small districts, districts that haven't passed a bond in 15 years or more, districts with older school buildings (for asbestos grant), districts with high seismic risk (for seismic grant), etc. In this way, the Technical Assistance Program is designed to give grants to districts that need them the most. The proposed preference points specific to ESDs that were developed in response to SB 285's passing are aligned with the existing preference points for School Districts that are already in administrative rule. The preference points for ESDs ensure continued equity among the school districts and ESDs such that those who need the grants the most have the best opportunity to receive one.

Oregon State Board of Education

January 18, 2024

AGENDA ITEM:

FISCAL ANALYSIS

Fiscal impact is minimal. No other state agencies are involved. Districts will be able to leverage more state funding in their efforts to encourage voters to pass bonds for improvements to their school facilities. There is no impact on small businesses.

EFFECT OF A "YES" OR "NO" VOTE

If the Board does not approve the staff recommendation for these rule changes, ODE will need to determine a different way to implement SB 285.

STAFF RECOMMENDATION

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

ATTACHMENTS

Attachment 1:
Oregon Administrative Rule, Chapter 581, Division 27, SCHOOL FACILITIES PROGRAMS

[Chapter 581](#)

Division 27

SCHOOL FACILITIES PROGRAMS

[581-027-0005](#)

Definitions

The following definitions and abbreviations apply to rules within OAR 581, Div 27:

- (1) "Acoustics" means the properties or qualities of a room or building that determine how sound is transmitted.
- (2) "Adjusted Assessed Property Value per ADM" means the value calculated per OAR 581-027-0010 to determine the ranking of Districts on the Priority List for Funding.
- (3) "Adjusted ADMr" means average daily membership as calculated under OAR 581-023-0006(5)-(7) reduced by the Average Daily Membership of virtual public charter schools in the District.
- (4) "Adjusted ADMw" means the number of students in a District as calculated under ORS 327.061 and includes all weights, and extended Average Daily Membership weighted, as calculated under ORS 327.013(1)(c) reduced by the Average Daily Membership of virtual public charter schools in the District.
- (5) "ADM" means Average Daily Membership.
- (6) "ADMr" or "Resident Average Daily Membership" means average daily membership as calculated under OAR 581-023-0006(5)-(7).
- (7) "Air Quality" means the degree to which the classrooms are ventilated to avoid high levels of carbon dioxide and the indoor air is free from pollutants such as radon, asbestos, mold, and particulate matter.
- (8) "Asbestos Environmental Hazard Assessment" or "Asbestos Management Planning & Inspections" means an inspection, periodic re-inspection, and surveillance for asbestos-containing material in accordance with the Asbestos Hazard Emergency Response Act of 1986 as amended by Public Law 100.368 and subsequent rule published in the Friday, October 30, 1987, Federal Register (40 CFR Part 763).
- (9) "Assessed Value" means the total assessed value of all tangible property within the boundaries of the District as published by the Oregon Department of Revenue.
- (10) "Average Daily Membership" or "ADMw" means the number of students in a District as calculated under ORS 327.061 and includes all weights, and extended Average Daily Membership weighted, as calculated under ORS 327.013(1)(c).
- (11) "Campus" means the grounds and buildings of a school where academic learning takes place.

(12) "Certified Assessor" means an entity or person who has gone through the process established by the Department that will certify the entity or person is qualified to perform the work.

(13) "Closing" means the date on which a District receives some or all of the proceeds of its Local GO Bonds.

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

(15) "District" or "Districts" means school districts, as defined in ORS 328.001(3), that are eligible to apply for a State Matching Grant.

(16) "DOGAMI" means the Oregon Department of Geology and Mineral Industries.

(17) "Educational Adequacy Review Standards" means the qualitative measures used to help districts identify elements that are conducive to a healthy and comfortable indoor learning environment that are set forth in OAR 581-027-0043.

(18) "Education Service District" means a district created under ORS 334.010.

(19) "Extended ADMw" means as that term is described in ORS 327.013(1)(c).

(20) "Facility Assessment" means an assessment that evaluates one or more facilities in a District according to the requirements set forth in OAR 581-027-0035.

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(21) "First in Time" means that portion of the Oregon School Capital Improvement Matching Account that is to be awarded to Districts based on the order in which the Department receives the applications.

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(22) "Funding Cycle" means the period of time, as determined by the Department under OAR 581-027-0020(3), before and after a May or a November general election during which the Department will accept applications, issue commitments, award grants, and finalize grant agreements for State Matching Grants under the OSCIM Program.

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(23) "Gross Square Footage" means the total square footage of the building as measured by the outside wall of the building.

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(24) "Guaranteed Tax Base Amount" or "GTBA" means a theoretical tax base of \$1,000,000 per ADM.

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(25) "Guaranteed Tax Rate Amount" means \$1,000 which is the GTBA multiplied by 0.001 for \$1 of tax per \$1,000 of Assessed Value.

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(26) "Lighting" means the level of illumination in a room or building.

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(27) "Local GO Bonds" means general obligation bonds approved by voters for the benefit of a District during the Funding Cycle for which the District applied for a State Matching Grant.

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(28) "Long-Range Facility Plan" means a plan that determines the long-range needs and goals of a District according to the requirements set forth in OAR 581-027-0040.

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(29) "Oregon School Capital Improvement Matching Account" means an interest-bearing account established in the State Treasury, separate and distinct from the General Fund, that consists of net proceeds from Article XI-P bonds issued under Article XI-P (School District Capital Costs) of the Oregon Constitution.

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(30) "Oregon School Capital Improvement Matching Program" or "OSCIM Program" means the program created by Article XI-P of the Oregon Constitution and ORS 286A.769 to 286A.806.

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(31) "Priority List" means the list created by the Department each biennium pursuant to ORS 286A.801 and the formula outlined in OAR 581-027-0010.

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(32) "Radon Environmental Hazard Assessment" means an assessment of a District's radon exposure as one of the potential environmental hazards to be assessed as set forth in ORS 332.331.

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(33) "Rapid Visual Screening" means the standard adopted by the Oregon Department of Geology and Mineral Industries to assess the seismic hazard potential of K-12 public school buildings.

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Deleted: RVS" means Rapid Visual Screening data collected by DOGAMI and published on their website.

(34) "School Capacity" means the total number of students who could be served in a given school building based on one of the following standards established by the district:

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(a) The number of teaching stations, target number of students per classroom, and a classroom utilization factor to reflect the amount of time classrooms can be used for teaching each day; or

(b) The number of square feet in a classroom divided by the number of classroom square feet required per student per grade level.

(35) "Seismic Assessment" means an assessment that evaluates one or more facilities in a District according to the requirements set forth in OAR 581-027-0045.

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(36) "State Matching Grant" means the grant funds provided by the State through the OSCIM Program to match the proceeds of a District's Local GO Bonds.

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(37) "Students in Poverty" means the number of children, age 5 to 17, in families in poverty as described by the Small Area Income Poverty Estimate published by the U.S. Census Bureau.

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(38) "Technical Assistance Grant" means a grant provided by the Department to a District such that a District can conduct an assessment as described in ORS 326.125 or these rules.

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(39) "Waitlist Ranking" means the list of Districts not initially awarded a State Matching Grant, based on either the District's position on the Priority List or the District's First in Time status, during any Funding Cycle.

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Statutory/Other Authority: Sec. 2, 5, ORS Ch. 783 & ORS Ch. 788

Statutes/Other Implemented: ORS Ch. 788, Sec. 2, 4, 5 & ORS Ch. 783

History:

[ODE 37-2021, amend filed 10/26/2021, effective 10/26/2021](#)

[ODE 42-2020, amend filed 10/22/2020, effective 10/22/2020](#)

[ODE 21-2019, amend filed 06/25/2019, effective 06/25/2019](#)

[ODE 32-2018, amend filed 10/19/2018, effective 10/21/2018](#)

ODE 4-2017, f. & cert. ef. 3-1-17

ODE 41-2016, f. & cert. ef. 7-20-16

ODE 30-2016, f. & cert. ef. 4-28-16

581-027-0010

Calculations for Oregon School Capital Improvement Matching Program Priority List

- (1) For each Funding Cycle, the Department shall provide State Matching Grants to Districts from designated resources in the Oregon School Capital Improvement Matching Account. The Department shall determine and apportion the amount of available resources among the Funding Cycles in each biennium. The total amount of State Matching Grant funds available and awarded by the Department may vary during each Funding Cycle.
- (2) The Department shall post on its website the amounts that will be available for OSCIM Grants for each Funding Cycle within a reasonable time after the Legislature determines the level of funding for the Oregon School Capital Improvement Matching Account.
- (3) If the Legislature does not determine the amount of funding for the Oregon School Capital Improvement Matching Account until after the application period opens for a given Funding Cycle, the application period will run as normal. However, any posting of results will be delayed until such time as the Legislature determines the amount of funding for the Oregon School Capital Improvement Matching Account.
- (4) If the Legislature does not appropriate any funds for the OSCIM Program for a biennium, or any part of the biennium, then the OSCIM Program will cancel open application periods and future application periods until funding is restored.
- (5) Sixty percent (60%) of designated grant resources in the Oregon School Capital Improvement Matching Account shall be awarded based on the Priority List.
- (6) The Priority List shall be based on a District's Assessed Value, Percentage of Students in Poverty, and Average Daily Membership.
- (7) The Department shall update the Priority List every biennium. The Priority List will be updated no later than June 1 before the start of the next biennium. The updated Priority List will be effective at the start of the next biennium. To update the list, the Department will use the data from the most recent year for which all three sources have reported actual data.
- (8) The Priority List shall be calculated as follows:
 - (a) The District's Students in Poverty shall be multiplied by twenty (20) to determine the Weighted Number of Students in Poverty.

(b) The District's Weighted Number of Students in Poverty shall be divided by the District's Adjusted ADMr to arrive at the District's Percentage of Students in Poverty.

(c) The District's Assessed Value shall be divided by the District's Adjusted ADMw to determine the District's Assessed Property Value per ADM.

(d) The District's Assessed Property Value per ADM shall then be divided by one (1) plus the Percentage of Students in Poverty to determine the District's Adjusted Assessed Value per ADM.

(e) The Districts will be ranked from the lowest Adjusted Assessed Property Value per ADM to the highest.

Statutory/Other Authority: Sec. 2 & 5, Ch. 783 & OL 2015 (Enrolled SB 447)

Statutes/Other Implemented: Sec. 2, 4 & 5, Ch. 783 & OL 2015 (Enrolled SB 447)

History:

[ODE 42-2020, amend filed 10/22/2020, effective 10/22/2020](#)

[ODE 21-2019, amend filed 06/25/2019, effective 06/25/2019](#)

ODE 7-2017, f. & cert. ef. 6-1-17

ODE 4-2017, f. & cert. ef. 3-1-17

ODE 30-2016, f. & cert. ef. 4-28-16

581-027-0015

Calculations for Oregon School Capital Improvement Matching Program Funding Formula

(1) The Department shall provide State Matching Grants to Districts from available resources in the Oregon School Capital Improvement Matching Account.

(2) Sixty-six percent (66%) of the available resources in the Oregon School Capital Improvement Matching Account for a biennium shall be awarded based on the Priority List.

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(3) Thirty-four percent (34%) of the available resources in the Oregon School Capital Improvement Matching Account for a biennium shall be awarded based on the order in which applications are received during the application period established by the Department for the Funding Cycle.

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(4) The Department shall use a funding formula to determine the amount of State Matching Grant funds each District is eligible to receive from the Oregon School Capital Improvement Matching Account. This funding formula will be used to determine eligibility for State Matching Grants awarded through both the Priority List and First in Time application process.

(5) Districts whose voters pass \$6,000,000 or less in Local GO Bonds for District facility projects shall be eligible for a one-to-one match from State Matching Grant funds.

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(6) Districts whose voters pass more than \$6,000,000 in Local GO Bonds for District facility projects shall be eligible for at least \$6,000,000 and no more than \$12,000,000 based on the following formula:

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(a) The District's Adjusted Assessed Property Value per ADM as determined by OAR 581-027-0010 shall be multiplied by the assumed tax rate of 0.001 (\$1 per \$1000 of assessed property value) to calculate the District's Estimated Local Bond Revenue per ADM.

(b) The Estimated Local Bond Revenue per ADM shall be subtracted from the Guaranteed Tax Rate Amount to determine the amount of eligible State Matching Grant funds per ADM.

(c) The eligible State Matching Grant funds per ADM shall be multiplied by the District's Adjusted ADMw to determine the maximum amount of State Matching Grant funds for which a District is eligible.

(7) The Department shall use the lesser of total proceeds from the sale of the Local GO Bonds exclusive of underwriter's discount and other costs of issuance or the original amount requested by the District as the final basis for calculating the State Matching Grant.

(8) Local GO Bonds used by a District to qualify for the OSCIM Program must be closed within nine (9) months of the date of the election at which the Local GO Bonds were approved.

Statutory/Other Authority: Sec. 2 & 5, Ch. 783 & OL 2015 (Enrolled SB 447)

Statutes/Other Implemented: Sec. 2, 4 & 5, Ch. 783 & OL 2015 (Enrolled SB 447)

History:

[ODE 42-2020, amend filed 10/22/2020, effective 10/22/2020](#)

[ODE 21-2019, amend filed 06/25/2019, effective 06/25/2019](#)

ODE 7-2017, f. & cert. ef. 6-1-17

ODE 4-2017, f. & cert. ef. 3-1-17

ODE 30-2016, f. & cert. ef. 4-28-16

[581-027-0020](#)

Oregon School Capital Improvement Matching Program Application

(1) The Department shall create one application for Districts to apply for State Matching Grants from the Oregon School Capital Improvement Matching Account.

(2) The Department shall post the application on the Department's web page.

(3) The Department shall open applications for each Funding Cycle as follows:

(a) On the July 15 that precedes the November Funding Cycles in a biennium; and

(b) On the December 15 that precedes the May Funding Cycles in a biennium.

(4) If one of those dates falls on a weekend or holiday, then the application period will be opened the Friday preceding.

(5) Applicants must submit their application electronically. Districts may submit applications only for an open and current Funding Cycle. The Department will not accept applications for later Funding Cycles.

(6) If a District's application does not meet the application requirements:

(a) The Department may agree to an extension of time, but no more than sixty (60) days from the deadline for submission, for the District to correct the deficiencies; and

(b) The Department may allow the District to continue to apply to the OSCIM Program even if the additional time extends beyond the application window.

(7) If a District fails to make the corrections within the agreed upon time, the Department shall cancel the District's application and readjust the pre-election commitments made.

(8) A District that submits an application for a Funding Cycle may withdraw the application no later than sixty (60) days from the application deadline.

(9) A District that applies during a Funding Cycle but either fails to withdraw under subsection (8) or fails to pass a Local GO Bond may apply for the next consecutive Funding Cycle.

(10) A District that applies for two consecutive Funding Cycles and fails to pass a Local GO Bond shall wait one Funding Cycle before applying again.

(11) Districts that withdraw from a Funding Cycle under subsection (8) shall not have that Funding Cycle count against them under subsection (10).

(12) The Department shall:

(a) Rank complete applications from Districts for each Funding Cycle according to the Priority List formula;

(b) Make funding commitments to Districts with the highest ranking on the priority list until sixty-six percent (66%) of the available resources for that Funding Cycle are used;

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(c) Make funding commitments to the remaining Districts in accordance to the First in Time process for that Funding Cycle.

(d) If a District receives a partial commitment in a Funding Cycle, the Department shall not round up that partial commitment by reducing funds available to other Funding Cycles.

(13) In order to promote equity across the state, the Department shall deem all applications received within a specified period of time for each Funding Cycle as being received at the same time.

(a) The Department shall establish the following periods for reception of applications:

(A) 8:00 a.m. to 12:30 p.m. will be the first application period; and

(B) 12:31 p.m. to 5:00 p.m. will be the second application period.

(b) All applications received during one of the above time periods will be deemed to have been received at the same time for purposes of awarding First in Time commitments.

(c) The Department shall commit First in Time funding to those applications received in the first period first. If there is funding remaining, then the Department shall commit the remaining funding to the second period.

(d) If the First in Time funding is insufficient to provide a commitment to all Districts within a given time period for that Funding Cycle, the Department shall randomly select the Districts by a lottery process to determine which Districts will receive an award commitment.

(e) The lottery process shall be determined by the Department.

(f) All lottery results are final.

(14) The Department shall notify Districts that receive a funding commitment from the Oregon School Capital Improvement Matching Account within two weeks of the close of the application period for a Funding Cycle.

(15) The Department shall post the eligibility and ranking of all Districts that applied during that Funding Cycle on the Department's website. Districts that applied but did not receive a commitment will be notified of where they fall on the Waitlist Ranking.

(16) All funding commitments are contingent upon the District subsequently Closing the required Local GO Bonds within nine (9) months of that Funding Cycle's bond election.

(17) Any Districts on the Waitlist Ranking may choose to seek voter approval for Local GO Bonds in that Funding Cycle with the understanding that State Matching Grant funds may become available for that Funding Cycle if a District that has received a commitment is unsuccessful in passing their Local GO Bonds.

(18) All funding commitments to Districts that successfully pass their Local GO Bonds in the Funding Cycle will be officially awarded a State Matching Grant upon the execution of a grant agreement prescribed by the Department.

(19) All funding commitments to Districts that are not successful in passing their Local GO Bonds will be recommitted to Districts that have successfully passed Local GO Bonds in that election in the following order:

(a) All Districts that received a partial commitment that passed a Local GO Bond will receive funding up to the full award.

(b) All Districts on the First in Time Waitlist Ranking that passed a Local GO Bond, will receive an award from the uncommitted First in Time funds.

(c) All Districts that received an award from the First in Time Waitlist Ranking will be removed from the Priority List Waitlist Ranking.

(d) All Districts remaining on the Priority List Waitlist Ranking that passed a Local GO Bond will receive any funds remaining from Districts that received a commitment, but failed to pass a Local GO Bond.

(20) Districts will have to reapply each Funding Cycle to receive a commitment for that Funding Cycle. A District will not be able to carry forward any commitments made in previous Funding Cycles.

(21) All decisions of the Department regarding the completeness of the application or ranking under either the Priority List or First in Time process are final.

(22) Any funding remaining after all awards have been made for a Funding Cycle shall be moved forward to the next Funding Cycle.

(23) If there are funds that remain available after the last election in a biennium, those funds will be distributed as follows:

(a) Districts with a partial commitment will be funded starting in order from the first election of the biennium;

(b) Districts that applied for the OSCIM Program and passed a Local GO Bond, but did not receive any funds will be funded starting in order from the first election of the biennium.

(24) When a state of emergency is declared pursuant to ORS 401.165 et. seq., the Department shall determine if the emergency will negatively impact a Funding Cycle and may:

(a) Change any application deadlines stated in (3) or OAR 581-027-0023(2) if the emergency interferes with Districts' abilities to submit the required documents by those deadlines; and

(b) Allow Districts to withdraw from the election during the affected Funding Cycle and hold their election during the next Funding Cycle.

(25) If Districts withdraw from the affected Funding Cycle, the Department may:

(a) Transfer funding commitments made to Districts during the affected Funding Cycle to the next Funding Cycle; and

(b) Apply the waitlist ranking of the affected Funding Cycle to the next Funding Cycle.

(26) The transfer of funding commitments and waitlist ranking made during the affected Funding Cycle do not impact or change funding commitments or waitlist ranking for the next Funding Cycle that have already been made by the Department.

(27) A District is considered to have withdrawn from an election when it sends its intention to withdraw from the election in writing to the Department.

(28) If multiple Funding Cycles are affected by the declared state of emergency, the Department shall review each Funding Cycle separately.

Statutory/Other Authority: Sec. 2 & 5, Ch. 783 & OL 2015 (Enrolled SB 447)

Statutes/Other Implemented: Sec. 2, 4 & 5, Ch. 783 & OL 2015 (Enrolled SB 447)

History:

[ODE 16-2021, amend filed 05/25/2021, effective 05/25/2021](#)

[ODE 42-2020, amend filed 10/22/2020, effective 10/22/2020](#)

[ODE 16-2020, temporary amend filed 04/23/2020, effective 04/23/2020 through 10/19/2020](#)

[ODE 21-2019, amend filed 06/25/2019, effective 06/25/2019](#)

ODE 7-2017, f. & cert. ef. 6-1-17

ODE 4-2017, f. & cert. ef. 3-1-17

ODE 30-2016, f. & cert. ef. 4-28-16

[581-027-0023](#)

Submission of Facility Assessments and Long-Range Facility Plans as part of Oregon School Capital Improvement Matching Program Grant Application

(1) In order to qualify for an OSCIM Program matching grant, Districts must submit a Facility Assessment and Long-Range Facility Plan as part of their OSCIM Program application. Failure to submit a Facility Assessment and Long-Range Facility Plan will disqualify the District from participation in the OSCIM Program application for that Funding Cycle.

(2) Districts shall submit their Facility Assessment and Long-Range Facility Plan as follows:

(a) On the July 1 that precedes the November Funding Cycles in a biennium; and

(b) On the December 1 that precedes the May Funding Cycles in a biennium.

(3) The Facility Assessment and Long-Range Facility Plan must be submitted electronically to the Department.

(4) The Department will review all Facility Assessment and Long-Range Facility Plan submissions to ensure compliance with requirements.

(5) If the Department determines a District's submission does not meet the requirements, the Department will notify the District of the deficiencies.

(6) The Department may agree to an extension of time, but no more than sixty (60) days from the deadline for OSCIM Program application submission, for the District to correct the deficiencies.

(7) If a District fails to make the corrections within the agreed upon time, the Department will cancel the District's application and readjust the pre-election commitments made.

(8) The Facility Assessment must meet the following requirements:

(a) Comply with the standards set forth in OAR 581-027-0035;

(b) Cover buildings that will be included in the OSCIM Program grant application. A District may include Facility Assessments for more buildings than would be improved using OSCIM Program funds; and

(c) Cover a District's current buildings even if the District is applying for the OSCIM Program only for the construction of a new building.

(9) The Long-Range Facility Plan must meet the following requirements:

(a) Comply with the standards set forth in OAR 581-027-0040; and

(b) Demonstrate how the new buildings proposed to be built are integrated into the Long-Range Facility Plan.

(10) Districts are not required to use a Certified Assessor to complete the Facility Assessment or the Long-Range Facility Plan.

(11) A District may use the same Facility Assessment and Long-Range Facility Plan as a basis for an OSCIM Program application for four (4) years from the year in which the plan was completed.

(12) The Department's determination of the adequacy of the Facility Assessment and Long-Range Facility Plan is final.

Statutory/Other Authority: ORS 286A.801(8)

Statutes/Other Implemented: ORS 286A.801(2)

History:

[ODE 16-2021, amend filed 05/25/2021, effective 05/25/2021](#)

[ODE 42-2020, amend filed 10/22/2020, effective 10/22/2020](#)

[ODE 21-2019, amend filed 06/25/2019, effective 06/25/2019](#)

ODE 7-2017, f. & cert. ef. 6-1-17

581-027-0025

Oregon School Capital Improvement Matching Program Grant Restrictions

(1) A District that receives a State Matching Grant will be ineligible for additional State Matching Grant funds for six (6) years from the year in which the District successfully passed their Local GO Bond.

(2) A District may not use State Matching Grant funds to refinance other general obligation bonds issued by the District.

(3) A District must use State Matching Grant funds for capital costs as defined in ORS 286A.796(3).

(4) A District may use State Matching Grant funds to reimburse the District for capital costs incurred by the District prior to the Funding Cycle in which the District was awarded a grant only if:

(a) The Department approves the use of State Matching Grant funds for such purpose; and

(b) The District complies with all requirements of the OSCIM Program.

(c) The Department's approval or disapproval of the use of State Matching Grant funds is final.

(5) State Matching Grant funds shall be used only to match the proceeds of Local GO Bonds authorized by an election in the same Funding Cycle in which the District applied for State Matching Grant funds.

Statutory/Other Authority: Sec. 2 & 5, Ch. 783 & OL 2015 (Enrolled SB 447)

Statutes/Other Implemented: Sec. 2, 4 & 5, Ch. 783 & OL 2015 (Enrolled SB 447)

History:

[ODE 34-2020, minor correction filed 08/28/2020, effective 08/28/2020](#)

[ODE 21-2019, amend filed 06/25/2019, effective 06/25/2019](#)

ODE 7-2017, f. & cert. ef. 6-1-17

ODE 4-2017, f. & cert. ef. 3-1-17

ODE 30-2016, f. & cert. ef. 4-28-16

[581-027-0030](#)

Technical Assistance Grant Program Procedures

(1) The Department shall open the application period for the Technical Assistance Grant Program on January 15 of each year and close the application period on February 15 of the same year. If either of those dates falls on a weekend or holiday, the preceding Friday will be the effective date of the opening or closing respectively.

(2) The Department shall establish a separate application for each type of grant available.

(3) Each District [and Education Service District](#) must submit a separate application for each grant type for which it chooses to apply.

(4) All Districts [and Education Service Districts](#) are eligible for each type of grant.

(5) All applications are due by the date established by the Department. No late applications will be accepted.

(6) The Department shall evaluate each completed application by awarding preference points as established by this rule.

(7) An application will receive one (1) point for each preference that the application meets.

(8) An application will receive a final score that is the total of the application's points.

(9) Applications will be funded from highest to lowest score.

(10) If there is not enough funding to provide a Technical Assistance Grant to all applications that have equal scores, then the Department shall create a lottery to determine which applications will receive a Technical Assistance Grant.

(11) The preference points for [Districts applying for](#) the Facility Assessment grant are:

- (a) District has twenty-five percent (25%) or more of its ADMr identified as Students in Poverty;
- (b) District has under 2,500 ADMr according to the annual reports for the same school year as used to calculate the Priority List under OAR 581-027-0010;
- (c) District has not conducted a Facility Assessment within ten (10) years or less;
- (d) District has not passed a general obligation bond within fifteen (15) years or less;
- (e) District's ADMr has changed by ten percent (10%) or more over the last five (5) years based on the latest annual reports submitted to the Department; and
- (f) District has completed its annual electronic submission of its building and bond data to the Department by February 15 of each year.

(12) The preference points for Education Service Districts applying for the Facility Assessment grant are:

- (a) The Education Service District has an average of twelve percent (12%) or more of its component school districts' ADMr identified as Students in Poverty;
- (b) The Education Service District has under 20,000 Extended ADMw according to the annual reports for the same school year as used to calculate the State School Fund allocations;
- (c) The Education Service District has at least one building used for instruction with a student capacity of 10 or more;
- (d) The Education Service District has not conducted a Facility Assessment within ten (10) years or less; and
- (e) The Education Service District has completed its annual electronic submission of its building and bond data to the Department by February 15 of each year.

(13) The preference points for Districts applying for the Long-Range Facility Plan grant are:

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- (a) District has twenty-five percent (25%) or more of its ADMr identified as Students in Poverty;
- (b) District has under 2,500 ADMr according to the annual reports for the same school year as used to calculate the Priority List under OAR 581-027-0010;
- (c) District has not conducted a Long-Range Facility Plan within ten (10) years or less;
- (d) District has not passed a general obligation bond within fifteen (15) years or less;
- (e) District's ADMr has changed by ten percent (10%) or more over the last five (5) years based on the latest annual reports submitted to the Department; and
- (f) District has completed its annual electronic submission of its building and bond data to the Department by February 15 of each year.

(14) The preference points for Education Service Districts applying for the Long-Range Facility Plan grant are:

(a) The Education Service District has an average of twelve percent (12%) or more of its component school districts' ADMr identified as Students in Poverty;

(b) The Education Service District has under 20,000 Extended ADMw according to the annual reports for the same school year as used to calculate the State School Fund allocations;

(c) The Education Service District has at least one building used for instruction with a student capacity of 10 or more;

(d) The Education Service District has not conducted a Long-Range Facility Plan within ten (10) years or less; and

(e) The Education Service District has completed its annual electronic submission of its building and bond data to the Department by February 15 of each year.

(15) The preference points for Districts applying for the Seismic Assessment grant are:

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(a) District has twenty-five percent (25%) or more of its ADMr identified as Students in Poverty;

(b) District has under 2,500 ADMr according to the annual reports for the same school year as used to calculate the Priority List under OAR 581-027-0010;

(c) District has not conducted an assessment for Business Oregon's Seismic Rehabilitation Grant Program;

(d) District identifies the schools it intends to assess and at least fifty percent (50%) are listed as "High" or "Very High" for collapse potential in the Rapid Visual Screening data created by the Department of Geology and Mineral Industries;

Deleted: Rapid Visual Survey

(e) District's Mapped Spectral Acceleration for a 1-second period (Ss) is greater than 0.6 as calculated by the United States Geological Survey; and

(f) District has completed its annual electronic submission of its building and bond data to the Department by February 15 of each year.

(16) The preference points for Education Service Districts applying for the Seismic Assessment grant are:

(a) The Education Service District has an average of twelve percent (12%) or more of its component school districts' ADMr identified as Students in Poverty;

(b) The Education Service District has under 20,000 Extended ADMw according to the annual reports for the same school year as used to calculate the State School Fund allocations;

(c) The Education Service District has at least one building used for instruction with a student capacity of 10 or more;

(d) The Education Service District's Mapped Spectral Acceleration for a 1-second period (Ss) is greater than 0.6 as calculated by the United States Geological Survey; and

(e) The Education Service District has completed its annual electronic submission of its building and bond data to the Department by February 15 of each year.

(17) The preference points for Districts applying for the Asbestos Environmental Hazard Assessment grant are:

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(a) District has twenty-five percent (25%) or more of its ADMr identified as Students in Poverty;

(b) District has under 2,500 ADMr according to the annual reports for the same school year as used to calculate the Priority List under OAR 581-027-0010;

(c) District has at least 50% or more of its schools built before 1980;

(d) District needs to provide training to a staff person to oversee asbestos-related activities and/or needs to provide asbestos awareness training to custodial staff;

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(e) District is due to conduct its 3-year re-inspection of asbestos-containing material in each school facility; and

(f) District has completed its annual electronic submission of its building and bond data to the Department by February 15 of each year.

(18) The preference points for Education Service Districts applying for the Asbestos Environmental Hazard Assessment grant are:

(a) The Education Service District has an average of twelve percent (12%) or more of its component school districts' ADMr identified as Students in Poverty;

(b) The Education Service District has under 20,000 Extended ADMw according to the annual reports for the same school year as used to calculate the State School Fund allocations;

(c) The Education Service District needs to provide training to a staff person to oversee asbestos-related activities and/or needs to provide asbestos awareness training to custodial staff;

(d) The Education District is due to conduct its 3-year re-inspection of asbestos-containing material in each facility; and

(e) The Education Service District has completed its annual electronic submission of its building and bond data to the Department by February 15 of each year.

(19) The preference points for Districts apply to the Radon Environmental Hazard Assessment grant are:

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- (a) District has twenty-five percent (25%) or more of its ADMr identified as Students in Poverty;
- (b) District has under 2,500 ADMr according to the annual reports for the same school year as used to calculate the Priority List under OAR 581-027-0010;
- (c) District has school and administrative buildings that have not been tested for radon, or district has school and administrative buildings that had testing completed after July 1 of the preceding year;
- (d) District's radon risk level is either "High" or "Not Assigned" according to information published by the Oregon Health Authority that provides for radon risk levels based on geography;
- (e) District has a school that qualifies as a remote small elementary school per ORS 327.077; and
- (f) District has completed its annual electronic submission of its building and bond data to the Department by February 15 of each year.

(20) The preference points for Education Service Districts apply to the Radon Environmental Hazard Assessment grant are:

(a) The Education Service District has an average of twelve percent (12%) or more of its component school districts' ADMr identified as Students in Poverty;

(b) The Education Service District has under 20,000 Extended ADMw according to the annual reports for the same school year as used to calculate the State School Fund allocations;

(c) The Education Service District has instructional spaces or administrative buildings that have not been tested for radon in the last 10 years or more;

(d) The Education Service District's radon risk level is either "High" or "Not Assigned" according to information published by the Oregon Health Authority that provides for radon risk levels based on geography; and

(e) The Education Service District has completed its annual electronic submission of its building and bond data to the Department by February 15 of each year.

(21) A District or Education Service District that is awarded a Technical Assistance Grant must:

- (a) Enter into a grant agreement with the Department by the time specified by the Department;
- (b) Use a Certified Assessor to perform a Facility Assessment or Long-Range Facility Plan;
- (c) Provide the Department with an electronic copy of any final reports required by the Technical Assistance Grant; and
- (d) Provide the Department with an electronic copy of invoices showing expenses incurred in performing the work for the specific Technical Assistance Grant.

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(22) A District or Education Service District must reapply each time a new grant application is announced if it did not receive a grant in the previous grant application period.

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(23) A District or Education Service District may apply to the Technical Assistance Program to be reimbursed d for assessments previously completed if:

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(a) The previous assessment work was started within six (6) months of the application period;

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(b) The previous assessments meet all requirements set forth for the type of assessment in these administrative rules; and

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(c) The Grantee submits a final copy of the report and all invoices within the required period for a Technical Assistance Program grant.

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(24) Grantees must submit all final reports and invoices by the date specified by the Department. If a Grantee does not meet that deadline, the Department may rescind their grant funds.

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(25) A District or Education Service District that receives a Technical Assistance Program grant will be ineligible to reapply for that specific grant for four (4) years from the year the grant was issued.

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Statutory/Other Authority: Sec. 2, 5, Ch. 783 & OL 2015 (Enrolled Senate Bill 447)

Statutes/Other Implemented: Sec. 5, Ch. 783 & OL 2015 (Enrolled Senate Bill 447)

History:

[ODE 37-2021, amend filed 10/26/2021, effective 10/26/2021](#)

[ODE 42-2020, amend filed 10/22/2020, effective 10/22/2020](#)

[ODE 21-2019, amend filed 06/25/2019, effective 06/25/2019](#)

[ODE 32-2018, amend filed 10/19/2018, effective 10/21/2018](#)

ODE 7-2017, f. & cert. ef. 6-1-17

ODE 4-2017, f. & cert. ef. 3-1-17

ODE 41-2016, f. & cert. ef. 7-20-16

[581-027-0035](#)

Facility Assessment Requirements

Each Facility Assessment shall contain:

(1) Name of Building.

(2) Building ID Number.

(3) Physical Address.

(4) Gross Square Footage.

(5) Original Construction Date.

(6) Original Construction Type.

(7) Additions:

- (a) Construction Date;
- (b) Construction Type;
- (c) Construction Square footage; and
- (d) Addition Construction Usage.

(8) Renovations:

- (a) Construction Date;
- (b) Construction Type;
- (c) Construction Square Footage; and
- (d) Renovation Construction Usage.

(9) UNIFORMAT II Infrastructure Assessment: An assessment of each applicable building element as listed in the American Society for Testing and Materials (ASTM) UNIFORMAT II Classification (October 1999) of Building Elements Level 3 that provides the following:

- (a) ASTM Number;
- (b) System Name;
- (c) Description of System;
- (d) Number of systems or square footage of system in need of repair or want of replacement;
- (e) Level of repair/replacement needed. The percent of the building affected should be noted to assist in cost estimating; and
- (f) Notes as to what specifically needs to be done to repair or replace the system.

(10) Additional items:

- (a) A safety and security analysis of the facility that determines if the facility meets current best practices for providing a safe and secure environment;
- (b) An ADA assessment and listing of deficiencies;
- (c) Assessment of technology infrastructure in the facility including bandwidth, type of internet connection, presence of wireless networks, and other means of providing access to information technology;
- (d) Assessment of indoor air quality; and

(e) Presence of harmful substances such as lead or asbestos in the facility based on District reports.

(11) Value Assessment:

(a) The current replacement value of the building using cost per square foot standards as determined by the Department and updated annually; and

(b) The Facilities Condition Index of the building as calculated by dividing the total estimated construction costs to completely repair the building by the current replacement value of the building.

(12) All information submitted electronically to the Department on a Department-established template which shall be used by Districts and Certified Assessors.

Statutory/Other Authority: Sec. 2 and 5, Ch. 783 & OL 2015 (Enrolled Senate Bill 447)

Statutes/Other Implemented: Sec. 5, Ch. 783 & OL 2015 (Enrolled Senate Bill 447)

History:

[ODE 42-2020, amend filed 10/22/2020, effective 10/22/2020](#)

[ODE 21-2019, amend filed 06/25/2019, effective 06/25/2019](#)

ODE 7-2017, f. & cert. ef. 6-1-17

ODE 4-2017, f. & cert. ef. 3-1-17

ODE 41-2016, f. & cert. ef. 7-20-16

[581-027-0040](#)

Long-Range Facility Plan Requirements

Each Long-Range Facility Plan shall contain the following information:

(1) Population projections by school age group for the next ten (10) years using U.S. Census or Census partner data.

(2) Collaboration with local government planning agencies (city and/or county) that results in:

(a) Identification of suitable school sites if needed; and

(b) Site acquisition schedules and programs.

(3) Evidence of community involvement in:

(a) Determining educational vision of local community;

(b) Reviewing the costs of identified improvements;

(c) Prioritizing the identified improvements; and

(d) Determining potential sources of funds for the improvements.

(4) Identification of buildings on historic preservation lists including the National Historic Register, Oregon State Historic Preservation Office, and local historic building lists.

(5) A rating or indication of the degree to which the instructional spaces at each of the District's or Education Service District's campuses meet the Department's Educational Adequacy Review Standards as described in OAR 581-027-0043.

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(6) If current facilities are unable to meet Department Educational Adequacy Review Standards, the District will then:

(a) Identify changes needed to bring current facilities up to a good or excellent rating against the Department's Educational Adequacy Review Standards; and

(b) Identify potential alternatives to new construction or major renovation of current facilities.

Statutory/Other Authority: Sec. 2, 5, Ch. 783 & OL 2015 (Enrolled Senate Bill 447)

Statutes/Other Implemented: Sec. 5, Ch. 783 & OL 2015 (Enrolled Senate Bill 447)

History:

[ODE 37-2021, amend filed 10/26/2021, effective 10/26/2021](#)

[ODE 42-2020, amend filed 10/22/2020, effective 10/22/2020](#)

[ODE 21-2019, amend filed 06/25/2019, effective 06/25/2019](#)

ODE 7-2017, f. & cert. ef. 6-1-17

ODE 4-2017, f. & cert. ef. 3-1-17

ODE 41-2016, f. & cert. ef. 7-20-16

581-027-0043

Educational Adequacy Review Standards

The standards are to be used for facilitating discussions around capital planning and improvement. These standards focus on five primary facets of school facilities that directly correlate to student outcomes.

(1) The Acoustic Educational Adequacy Standard reviews whether:

(a) The sound-conditioning in a given space is acoustically comfortable to permit instructional activities to take place;

(b) Sound is transmitted without interfering with adjoining instructional spaces; and

(c) The ventilation system does not transmit an inordinate sound level to the instructional program.

(2) The Air Quality Education Adequacy Standard reviews whether the District implements an Indoor Air Quality Management Program at each of its campuses.

(3) The Lighting Educational Adequacy Standard reviews whether:

(a) Light design generates an illumination level that provides comfortable and adequate visual conditions in each educational space;

(b) Ceilings and walls are white or light-colored for high reflectance unless the function of space dictates otherwise;

- (c) Lights do not produce glare or block the line of sight;
 - (d) Window treatment allows entrance of daylight but does not cause excessive glare or heat gain; and
 - (e) Fixtures provide an even light distribution throughout the learning area.
- (4) The Temperature Education Adequacy Standard reviews whether the school's heating and cooling system provides consistent thermal comfort to students and teachers year-round.
- (5) The School Capacity Educational Adequacy Standard reviews whether:
- (a) The school can support its projected enrollment; and
 - (b) The student population is within the limits of the school's capacity based on the district's classroom loading standards.
- (6) Districts and Certified Assessors may use additional educational adequacy review standards as deemed appropriate for the facilities.
- (7) The required educational adequacy review standards may only be substituted for more comprehensive and/or quantitative standards if the District and Certified Assessor agree this is needed.

Statutory/Other Authority: ORS 326.125(4)

Statutes/Other Implemented: ORS 326.125(4)

History:

[ODE 37-2021, adopt filed 10/26/2021, effective 10/26/2021](#)

[581-027-0045](#)

Seismic Assessment Requirements

Each Seismic Assessment shall contain the following:

- (1) Name of Building.
- (2) Gross Square Footage of Building.
- (3) Physical Address.
- (4) Original Construction Date.
- (5) Original Construction Type.
- (6) Additions:
 - (a) Construction Date;
 - (b) Construction Type;
 - (c) Construction Square Footage; and

(d) Construction Usage.

(7) Procedures used to determine the building's ability to meet the Basic Performance Objective for Existing Buildings (BPOE) in ASCE 41-17. Specifically:

(a) The building's ability to perform to the Limited Safety Structural Performance Level at the BSE-2E hazard level in ASCE 41-17 if building is categorized as Risk Category III, school buildings, not including areas which may be used as emergency shelters, under OAR 123-051-0600; or

(b) The building's ability to perform to the Life Safety Structural Performance Level at BSE-2E hazard level AND the Immediate Occupancy Structural Performance Level at the BSE-1E hazard level in ASCE 41-17 if building is categorized as Risk Category IV, emergency service buildings and school areas that may be used as emergency shelters, under OAR 123-051-0600.

(8) List of deficiencies that need to be corrected to qualify building to meet the Basic Performance Objective for Existing Buildings in accordance with ASCE 41-17.

(9) List of drawings illustrating schematic rehabilitation tasks to rectify listed deficiencies in accordance with ACSE 41-17 standard.

(10) Cost estimate provided by professional with knowledge about the type of work to be done that includes contingencies built into all budget categories.

(11) Certification of the final assessment provided by registered Structural Engineer licensed in the State of Oregon.

Statutory/Other Authority: Sec. 2 and 5, Ch. 783 & OL 2015 (Enrolled Senate Bill 447)

Statutes/Other Implemented: Ch. 783, OL 2015 (Enrolled Senate Bill 447) & Sec. 5

History:

[ODE 42-2020, amend filed 10/22/2020, effective 10/22/2020](#)

[ODE 21-2019, amend filed 06/25/2019, effective 06/25/2019](#)

[ODE 12-2019, amend filed 04/22/2019, effective 04/22/2019](#)

[ODE 42-2018, amend filed 12/10/2018, effective 12/10/2018](#)

ODE 7-2017, f. & cert. ef. 6-1-17

ODE 4-2017, f. & cert. ef. 3-1-17

ODE 41-2016, f. & cert. ef. 7-20-16

[581-027-0050](#)

Assessor Certification Program

(1) The Department shall establish a program whereby entities or individuals can apply to become Certified Assessors for the Technical Assistance Program.

(2) The program shall contain a portion of instruction on the methods to be used by Certified Assessors in performing Facility Assessment and Long-Range Facility Plan work.

(3) The program shall contain a test such that those that pass will become Certified Assessors.

(4) The Department shall post on its website specific information for each time the training program is held.

(5) The requirements for individuals to apply to the Certified Assessor Program are:

(a) The applicant must be legally able to work under a public contract in the State of Oregon;

(b) The applicant must be an architectural and/or engineering professional who has at least 5 years of experience working with K-12 schools.

(c) The applicant must demonstrate capacity for assessing whole-building systems for schools.

(6) No individual may become a Certified Assessor unless:

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(a) They meet the requirements to apply for the program;

(b) Attend and complete the training for Certified Assessors; and

(c) Pass a written examination at the end of the training program.

Statutory/Other Authority: ORS 286A.801(8)

Statutes/Other Implemented: ORS 286A.801(2)

History:

[ODE 37-2021, amend filed 10/26/2021, effective 10/26/2021](#)

[ODE 35-2020, minor correction filed 08/28/2020, effective 08/28/2020](#)

[ODE 21-2019, amend filed 06/25/2019, effective 06/25/2019](#)

ODE 7-2017, f. & cert. ef. 6-1-17

ODE 4-2017, f. & cert. ef. 3-1-17

ODE 41-2016, f. & cert. ef. 7-20-16

Oregon State Board of Education

January 18, 2024

AGENDA ITEM:

<p>SUBJECT: Updates to the Oregon School Capital Improvement Matching Program’s and Technical Assistance Program’s OARs OAR # 581-027-0010 / Calculations for OSCIM Program Priority List OAR # 581-027-0015/ Calculations for OSCIM Program Funding Formula OAR # 581-027-0030 / Technical Assistance Grant Program Procedures</p> <p>STAFF NAME & OFFICE: Michael Elliott and Leanna Heiman, OFIT Office of School Facilities</p> <p>SB 285 increases the amounts of both the OSCIM and TAP grants. SB 285 also allowed ESDs to apply for the TAP grants. The OARs need to be updated to align with SB 285.</p> <p>OAR 581-027-0050 will be updated to clarify application requirements.</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 checked="" type="checkbox"/> Action <input type="checkbox"/> Temp Rule <input checked="" type="checkbox"/> Presentation <input type="checkbox"/> No Presentation</p>
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BACKGROUND

Since 2016, the Oregon School Capital Improvement Matching (OSCIM) Program has been awarding matching grants to school districts to help them pass general obligation bonds for capital improvements. Grant amounts, \$4 -\$8 million, are based on a funding formula and districts apply several months in advance of an election. Depending on the amount of funding available, their place on the priority list and the time in which their application is received, districts are given a state-match funding commitment that they can advertise as part of their bond campaign to incentivize their constituents to vote in favor of the bond measure.

Due to increasing costs, Senate Bill 285 increased the state’s matching funds for OSCIM grants to a minimum of \$6 million and a maximum of \$12 million per grant. SB 285 also changes the allocation of funds from 60% to the priority list and 40% to the first-in-time list to 66% and 34% respectively.

The Technical Assistance Program (TAP) awards competitive grants to school districts for Facility Assessments, Long-Range Facility Planning, Seismic Assessments, and Environmental Hazard Assessments. Senate Bill 285 increases the maximum size of these grants to \$40,000. Also, Senate Bill 285, allows Education Service Districts (ESDs) to apply for the TAP grants.

The TAP has been awarding grants to school districts every year since 2016 using a preference point system. This ensures that the districts with the most need have a greater opportunity to receive a grant. School districts can receive up to 6 preference points based on high poverty, small school district size, and relevant building characteristics. Because Senate Bill 285 allows ESDs to receive TAP grants they will be able to receive 5 preference points for each grant type to which they apply.

The preference points specific to ESDs were designed to align with the existing preference points for school districts. The ESD-specific preference points also include points for high levels of poverty, smaller

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districts served, and relevant building characteristics. The formulation process involved input from the Office of School Facilities' technical advisory group, a diverse panel consisting of architects, engineers, district officials, and financing experts. Their collaborative efforts aimed to ensure that the proposed preference points effectively capture the needs of both ESDs and school districts.

Not related to Senate Bill 285, are the rule changes to **OAR 581-027-0050** Assessor Certification Program. This is a minor update to the rule that further clarifies the qualifications of prospective applicants to the Assessor Certification Program managed by TAP. This additional language provides greater transparency to the program's application review and selection process.

SUMMARY OF PREVIOUS BOARD ACTION

No previous action has been taken.

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 current preference points (criteria) used by TAP for ranking grant applications from school districts are not feasible for ESDs. Based on feedback from our technical advisory group and the Rules Advisory Committee it was determined that ESDs would still be competitive with 5 preference points.

The available funding for TAP remains unchanged, so with the increase in that statutory limit of these grants this could potentially mean that fewer grants are awarded. For the last few years, TAP has awarded 85-100 grants on average with a total budget of approximately \$2,000,000 to \$2,500,000. The increase in grant amounts to \$40,000 for the Facility Assessment and Long-Range Facility Planning grants could reduce the total number of grants awarded to 65-85 a year.

The Legislature authorizes the funding for the OSCIM Program each biennium. The 2023 Legislature allocated \$100,000,000 for OSCIM grants for the 2023-25 biennium, plus \$26,843,870 that rolled over from the 2021-23 biennium. With the increased grant amounts, the OSCIM program may award fewer grants, but not every district that applies to the OSCIM program will pass their bonds. For the last few elections, the program has been undersubscribed and has been able to offer funding commitments to every applying district in advance of the election and offer the districts that do pass their full match. By increasing the OSCIM grant amounts, the program will offer a better incentive for voters to vote yes on their district's bond measure.

EQUITY IMPACT ANALYSIS

Oregon State Board of Education

January 18, 2024

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These changes provide better resources to districts to address deferred maintenance and improve school facilities across the State which will have an impact on all student groups. Both the OSCIM Program and TAP prioritize giving grants to small districts with high poverty.

For small, rural, and poor school districts in Oregon, the increased grant amounts can be used to greater advantage. For TAP, many larger and urban districts can pay for Facility Assessments and Long-Range Facility Planning out of their operating budgets. The TAP grants help offset costs but do not make or break the assessment and planning efforts. For smaller districts with greater poverty, districts are reliant on the TAP grants to cover all the costs associated with the facility assessment and long-range facility plan. The grant amount of \$20,000 for the Facility Assessment and \$25,000 for Long-Range Facility Planning need to be increased to provide these disadvantaged districts with sufficient funding to cover most if not all the costs associated with a good long-range facility plan which is the basis of a district's bond campaign.

These grants also pave the way for districts to apply to the OSCIM program. The Facility Assessment and Long-Range Facility Plan are required components of the OSCIM grant application. With increased funding available through the OSCIM program, districts will have an increased chance of passing their bonds. For smaller districts in Oregon, this increase in funding allows them to get more construction projects covered by state funding if their bond measures pass.

The main goal of the OSCIM Program's Priority List is to provide districts that have high poverty rates and low assessed values a better chance of securing state matching grants. This will ensure that the OSCIM Program is providing equity across the state. The Priority List determines both the rank order in which each district would be awarded funding should a local GO bond issue be approved and determines the amount of funds that could be awarded to each district. The changes to the administrative rule will mean that a greater portion of districts will be given a funding commitment based on the Priority List vs. First-In-Time. The changes in percentages to 66% Priority List and 34% First-in-time will help ensure districts with greater need are given priority.

For TAP, the objective of the preference points used in ranking applications is to give priority to districts with greater needs. Because the program provides 4 distinct grant types, a set of preference points has been developed for each grant to give priority based on factors such as high poverty, small districts, districts that haven't passed a bond in 15 years or more, districts with older school buildings (for asbestos grant), districts with high seismic risk (for seismic grant), etc. In this way, the Technical Assistance Program is designed to give grants to districts that need them the most. The proposed preference points specific to ESDs that were developed in response to Senate Bill 285's passing are aligned with the existing preference points for school districts that are already in administrative rule. The preference points for ESDs ensure continued equity among the school districts and ESDs such that those who need the grants the most have the best opportunity to receive one.

FISCAL ANALYSIS

Oregon State Board of Education

January 18, 2024

AGENDA ITEM:

Fiscal impact is minimal. No other state agencies are involved. Districts will be able to leverage more state funding in their efforts to encourage voters to pass bonds for improvements to their school facilities. There is no impact on small businesses.

EFFECT OF A "YES" OR "NO" VOTE

If the Board does not approve the staff recommendation for these rule changes, ODE will need to determine a different way to implement SB 285.

STAFF RECOMMENDATION

Approve Approve next month No recommendation at this time

Prompted by: State law changes Federal law changes other

ATTACHMENTS

Attachment 1:

Oregon Administrative Rule, Chapter 581, Division 27, SCHOOL FACILITIES PROGRAMS

Oregon State Board of Education

January 18, 2024

AGENDA ITEM:

[Chapter 581](#)

Division 27

SCHOOL FACILITIES PROGRAMS

[581-027-0005](#)

Definitions

The following definitions and abbreviations apply to rules within OAR 581, Div 27:

- (1) "Acoustics" means the properties or qualities of a room or building that determine how sound is transmitted.
- (2) "Adjusted Assessed Property Value per ADM" means the value calculated per OAR 581-027-0010 to determine the ranking of Districts on the Priority List for Funding.
- (3) "Adjusted ADMr" means average daily membership as calculated under OAR 581-023-0006(5)-(7) reduced by the Average Daily Membership of virtual public charter schools in the District.
- (4) "Adjusted ADMw" means the number of students in a District as calculated under ORS 327.061 and includes all weights, and extended Average Daily Membership weighted, as calculated under ORS 327.013(1)(c) reduced by the Average Daily Membership of virtual public charter schools in the District.
- (5) "ADM" means Average Daily Membership.
- (6) "ADMr" or "Resident Average Daily Membership" means average daily membership as calculated under OAR 581-023-0006(5)-(7).
- (7) "Air Quality" means the degree to which the classrooms are ventilated to avoid high levels of carbon dioxide and the indoor air is free from pollutants such as radon, asbestos, mold, and particulate matter.
- (8) "Asbestos Environmental Hazard Assessment" or "Asbestos Management Planning & Inspections" means an inspection, periodic re-inspection, and surveillance for asbestos-containing material in accordance with the Asbestos Hazard Emergency Response Act of 1986 as amended by Public Law 100.368 and subsequent rule published in the Friday, October 30, 1987, Federal Register (40 CFR Part 763).
- (9) "Assessed Value" means the total assessed value of all tangible property within the boundaries of the District as published by the Oregon Department of Revenue.
- (10) "Average Daily Membership" or "ADMw" means the number of students in a District as calculated under ORS 327.061 and includes all weights, and extended Average Daily Membership weighted, as calculated under ORS 327.013(1)(c).
- (11) "Campus" means the grounds and buildings of a school where academic learning takes place.

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(12) “Certified Assessor” means an entity or person who has gone through the process established by the Department that will certify the entity or person is qualified to perform the work.

(13) “Closing” means the date on which a District receives some or all of the proceeds of its Local GO Bonds.

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

(15) “District” or “Districts” means school districts, as defined in ORS 328.001(3), that are eligible to apply for a State Matching Grant.

(16) “DOGAMI” means the Oregon Department of Geology and Mineral Industries.

(17) “Educational Adequacy Review Standards” means the qualitative measures used to help districts identify elements that are conducive to a healthy and comfortable indoor learning environment that are set forth in OAR 581-027-0043.

(18) “Education Service District” means a district created under ORS 334.010.

(19) “Extended ADMw” means as that term is described in ORS 327.013(1)(c).

~~(2018)~~ “Facility Assessment” means an assessment that evaluates one or more facilities in a District according to the requirements set forth in OAR 581-027-0035.

~~(2119)~~ “First in Time” means that portion of the Oregon School Capital Improvement Matching Account that is to be awarded to Districts based on the order in which the Department receives the applications.

~~(2220)~~ “Funding Cycle” means the period of time, as determined by the Department under OAR 581-027-0020(3), before and after a May or a November general election during which the Department will accept applications, issue commitments, award grants, and finalize grant agreements for State Matching Grants under the OSCIM Program.

~~(2321)~~ “Gross Square Footage” means the total square footage of the building as measured by the outside wall of the building.

~~(2224)~~ “Guaranteed Tax Base Amount” or “GTBA” means a theoretical tax base of \$1,000,000 per ADM.

~~(2523)~~ “Guaranteed Tax Rate Amount” means \$1,000 which is the GTBA multiplied by 0.001 for \$1 of tax per \$1,000 of Assessed Value.

~~(2624)~~ “Lighting” means the level of illumination in a room or building.

~~(2725)~~ “Local GO Bonds” means general obligation bonds approved by voters for the benefit of a District during the Funding Cycle for which the District applied for a State Matching Grant.

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AGENDA ITEM:

~~(2826)~~ “Long-Range Facility Plan” means a plan that determines the long-range needs and goals of a District according to the requirements set forth in OAR 581-027-0040.

~~(2927)~~ “Oregon School Capital Improvement Matching Account” means an interest-bearing account established in the State Treasury, separate and distinct from the General Fund, that consists of net proceeds from Article XI-P bonds issued under Article XI-P (School District Capital Costs) of the Oregon Constitution.

~~(3028)~~ “Oregon School Capital Improvement Matching Program” or “OSCIM Program” means the program created by Article XI-P of the Oregon Constitution and ORS 286A.769 to 286A.806.

~~(3129)~~ “Priority List” means the list created by the Department each biennium pursuant to ORS 286A.801 and the formula outlined in OAR 581-027-0010.

~~(3230)~~ “Radon Environmental Hazard Assessment” means an assessment of a District’s radon exposure as one of the potential environmental hazards to be assessed as set forth in ORS 332.331.

~~(3331)~~ “Rapid Visual Screening” means the standard adopted by the Oregon Department of Geology and Mineral Industries to assess the seismic hazard potential of K-12 public school buildings. ~~RVS” means Rapid Visual Screening data collected by DOGAMI and published on their website.~~

~~(3432)~~ “School Capacity” means the total number of students who could be served in a given school building based on one of the following standards established by the district:

(a) The number of teaching stations, target number of students per classroom, and a classroom utilization factor to reflect the amount of time classrooms can be used for teaching each day; or

(b) The number of square feet in a classroom divided by the number of classroom square feet required per student per grade level.

~~(3533)~~ “Seismic Assessment” means an assessment that evaluates one or more facilities in a District according to the requirements set forth in OAR 581-027-004550.

~~(3634)~~ “State Matching Grant” means the grant funds provided by the State through the OSCIM Program to match the proceeds of a District’s Local GO Bonds.

~~(3735)~~ “Students in Poverty” means the number of children, age 5 to 17, in families in poverty as described by the Small Area Income Poverty Estimate published by the U.S. Census Bureau.

~~(3836)~~ “Technical Assistance Grant” means a grant provided by the Department to a District such that a District can conduct an assessment as described in ORS 326.125 or these rules.

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AGENDA ITEM:

(3937) “Waitlist Ranking” means the list of Districts not initially awarded a State Matching Grant, based on either the District’s position on the Priority List or the District’s First in Time status, during any Funding Cycle.

Statutory/Other Authority: Sec. 2, 5, ORS Ch. 783 & ORS Ch. 788

Statutes/Other Implemented: ORS Ch. 788, Sec. 2, 4, 5 & ORS Ch. 783

History:

[ODE 37-2021, amend filed 10/26/2021, effective 10/26/2021](#)

[ODE 42-2020, amend filed 10/22/2020, effective 10/22/2020](#)

[ODE 21-2019, amend filed 06/25/2019, effective 06/25/2019](#)

[ODE 32-2018, amend filed 10/19/2018, effective 10/21/2018](#)

ODE 4-2017, f. & cert. ef. 3-1-17

ODE 41-2016, f. & cert. ef. 7-20-16

ODE 30-2016, f. & cert. ef. 4-28-16

581-027-0010

Calculations for Oregon School Capital Improvement Matching Program Priority List

(1) For each Funding Cycle, the Department shall provide State Matching Grants to Districts from designated resources in the Oregon School Capital Improvement Matching Account. The Department shall determine and apportion the amount of available resources among the Funding Cycles in each biennium. The total amount of State Matching Grant funds available and awarded by the Department may vary during each Funding Cycle.

(2) The Department shall post on its website the amounts that will be available for OSCIM Grants for each Funding Cycle within a reasonable time after the Legislature determines the level of funding for the Oregon School Capital Improvement Matching Account.

(3) If the Legislature does not determine the amount of funding for the Oregon School Capital Improvement Matching Account until after the application period opens for a given Funding Cycle, the application period will run as normal. However, any posting of results will be delayed until such time as the Legislature determines the amount of funding for the Oregon School Capital Improvement Matching Account.

(4) If the Legislature does not appropriate any funds for the OSCIM Program for a biennium, or any part of the biennium, then the OSCIM Program will cancel open application periods and future application periods until funding is restored.

(5) Sixty percent (60%) of designated grant resources in the Oregon School Capital Improvement Matching Account shall be awarded based on the Priority List.

(6) The Priority List shall be based on a District’s Assessed Value, Percentage of Students in Poverty, and Average Daily Membership.

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AGENDA ITEM:

(7) The Department shall update the Priority List every biennium. The Priority List will be updated no later than June 1 before the start of the next biennium. The updated Priority List will be effective at the start of the next biennium. To update the list, the Department will use the data from the most recent year for which all three sources have reported actual data.

(8) The Priority List shall be calculated as follows:

(a) The District's Students in Poverty shall be multiplied by twenty (20) to determine the Weighted Number of Students in Poverty.

(b) The District's Weighted Number of Students in Poverty shall be divided by the District's Adjusted ADMr to arrive at the District's Percentage of Students in Poverty.

(c) The District's Assessed Value shall be divided by the District's Adjusted ADMw to determine the District's Assessed Property Value per ADM.

(d) The District's Assessed Property Value per ADM shall then be divided by one (1) plus the Percentage of Students in Poverty to determine the District's Adjusted Assessed Value per ADM.

(e) The Districts will be ranked from the lowest Adjusted Assessed Property Value per ADM to the highest.

Statutory/Other Authority: Sec. 2 & 5, Ch. 783 & OL 2015 (Enrolled SB 447)

Statutes/Other Implemented: Sec. 2, 4 & 5, Ch. 783 & OL 2015 (Enrolled SB 447)

History:

[ODE 42-2020, amend filed 10/22/2020, effective 10/22/2020](#)

[ODE 21-2019, amend filed 06/25/2019, effective 06/25/2019](#)

ODE 7-2017, f. & cert. ef. 6-1-17

ODE 4-2017, f. & cert. ef. 3-1-17

ODE 30-2016, f. & cert. ef. 4-28-16

[581-027-0015](#)

Calculations for Oregon School Capital Improvement Matching Program Funding Formula

(1) The Department shall provide State Matching Grants to Districts from available resources in the Oregon School Capital Improvement Matching Account.

(2) Sixty~~-six~~ percent (~~6660~~%) of the available resources in the Oregon School Capital Improvement Matching Account for a biennium shall be awarded based on the Priority List.

(3) ~~Thirty-four~~Forty percent (~~3440~~%) of the available resources in the Oregon School Capital Improvement Matching Account for a biennium shall be awarded based on the order in which applications are received during the application period established by the Department for the Funding Cycle.

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(4) The Department shall use a funding formula to determine the amount of State Matching Grant funds each District is eligible to receive from the Oregon School Capital Improvement Matching Account. This funding formula will be used to determine eligibility for State Matching Grants awarded through both the Priority List and First in Time application process.

(5) Districts whose voters pass \$46,000,000 or less in Local GO Bonds for District facility projects shall be eligible for a one-to-one match from State Matching Grant funds.

(6) Districts whose voters pass more than \$64,000,000 in Local GO Bonds for District facility projects shall be eligible for at least \$46,000,000 and no more than \$128,000,000 based on the following formula:

(a) The District's Adjusted Assessed Property Value per ADM as determined by OAR 581-027-0010 shall be multiplied by the assumed tax rate of 0.001 (\$1 per \$1000 of assessed property value) to calculate the District's Estimated Local Bond Revenue per ADM.

(b) The Estimated Local Bond Revenue per ADM shall be subtracted from the Guaranteed Tax Rate Amount to determine the amount of eligible State Matching Grant funds per ADM.

(c) The eligible State Matching Grant funds per ADM shall be multiplied by the District's Adjusted ADMw to determine the maximum amount of State Matching Grant funds for which a District is eligible.

(7) The Department shall use the lesser of total proceeds from the sale of the Local GO Bonds exclusive of underwriter's discount and other costs of issuance or the original amount requested by the District as the final basis for calculating the State Matching Grant.

(8) Local GO Bonds used by a District to qualify for the OSCIM Program must be closed within nine (9) months of the date of the election at which the Local GO Bonds were approved.

Statutory/Other Authority: Sec. 2 & 5, Ch. 783 & OL 2015 (Enrolled SB 447)

Statutes/Other Implemented: Sec. 2, 4 & 5, Ch. 783 & OL 2015 (Enrolled SB 447)

History:

[ODE 42-2020, amend filed 10/22/2020, effective 10/22/2020](#)

[ODE 21-2019, amend filed 06/25/2019, effective 06/25/2019](#)

ODE 7-2017, f. & cert. ef. 6-1-17

ODE 4-2017, f. & cert. ef. 3-1-17

ODE 30-2016, f. & cert. ef. 4-28-16

[581-027-0020](#)

Oregon School Capital Improvement Matching Program Application

(1) The Department shall create one application for Districts to apply for State Matching Grants from the Oregon School Capital Improvement Matching Account.

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- (2) The Department shall post the application on the Department's web page.
- (3) The Department shall open applications for each Funding Cycle as follows:
 - (a) On the July 15 that precedes the November Funding Cycles in a biennium; and
 - (b) On the December 15 that precedes the May Funding Cycles in a biennium.
- (4) If one of those dates falls on a weekend or holiday, then the application period will be opened the Friday preceding.
- (5) Applicants must submit their application electronically. Districts may submit applications only for an open and current Funding Cycle. The Department will not accept applications for later Funding Cycles.
- (6) If a District's application does not meet the application requirements:
 - (a) The Department may agree to an extension of time, but no more than sixty (60) days from the deadline for submission, for the District to correct the deficiencies; and
 - (b) The Department may allow the District to continue to apply to the OSCIM Program even if the additional time extends beyond the application window.
- (7) If a District fails to make the corrections within the agreed upon time, the Department shall cancel the District's application and readjust the pre-election commitments made.
- (8) A District that submits an application for a Funding Cycle may withdraw the application no later than sixty (60) days from the application deadline.
- (9) A District that applies during a Funding Cycle but either fails to withdraw under subsection (8) or fails to pass a Local GO Bond may apply for the next consecutive Funding Cycle.
- (10) A District that applies for two consecutive Funding Cycles and fails to pass a Local GO Bond shall wait one Funding Cycle before applying again.
- (11) Districts that withdraw from a Funding Cycle under subsection (8) shall not have that Funding Cycle count against them under subsection (10).
- (12) The Department shall:
 - (a) Rank complete applications from Districts for each Funding Cycle according to the Priority List formula;
 - (b) Make funding commitments to Districts with the highest ranking on the priority list until sixty-six percent (~~66.60~~%) of the available resources for that Funding Cycle are used;

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(c) Make funding commitments to the remaining Districts in accordance to the First in Time process for that Funding Cycle.

(d) If a District receives a partial commitment in a Funding Cycle, the Department shall not round up that partial commitment by reducing funds available to other Funding Cycles.

(13) In order to promote equity across the state, the Department shall deem all applications received within a specified period of time for each Funding Cycle as being received at the same time.

(a) The Department shall establish the following periods for reception of applications:

(A) 8:00 a.m. to 12:30 p.m. will be the first application period; and

(B) 12:31 p.m. to 5:00 p.m. will be the second application period.

(b) All applications received during one of the above time periods will be deemed to have been received at the same time for purposes of awarding First in Time commitments.

(c) The Department shall commit First in Time funding to those applications received in the first period first. If there is funding remaining, then the Department shall commit the remaining funding to the second period.

(d) If the First in Time funding is insufficient to provide a commitment to all Districts within a given time period for that Funding Cycle, the Department shall randomly select the Districts by a lottery process to determine which Districts will receive an award commitment.

(e) The lottery process shall be determined by the Department.

(f) All lottery results are final.

(14) The Department shall notify Districts that receive a funding commitment from the Oregon School Capital Improvement Matching Account within two weeks of the close of the application period for a Funding Cycle.

(15) The Department shall post the eligibility and ranking of all Districts that applied during that Funding Cycle on the Department's website. Districts that applied but did not receive a commitment will be notified of where they fall on the Waitlist Ranking.

(16) All funding commitments are contingent upon the District subsequently Closing the required Local GO Bonds within nine (9) months of that Funding Cycle's bond election.

(17) Any Districts on the Waitlist Ranking may choose to seek voter approval for Local GO Bonds in that Funding Cycle with the understanding that State Matching Grant funds may become available for that Funding Cycle if a District that has received a commitment is unsuccessful in passing their Local GO Bonds.

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(18) All funding commitments to Districts that successfully pass their Local GO Bonds in the Funding Cycle will be officially awarded a State Matching Grant upon the execution of a grant agreement prescribed by the Department.

(19) All funding commitments to Districts that are not successful in passing their Local GO Bonds will be recommitted to Districts that have successfully passed Local GO Bonds in that election in the following order:

(a) All Districts that received a partial commitment that passed a Local GO Bond will receive funding up to the full award.

(b) All Districts on the First in Time Waitlist Ranking that passed a Local GO Bond, will receive an award from the uncommitted First in Time funds.

(c) All Districts that received an award from the First in Time Waitlist Ranking will be removed from the Priority List Waitlist Ranking.

(d) All Districts remaining on the Priority List Waitlist Ranking that passed a Local GO Bond will receive any funds remaining from Districts that received a commitment, but failed to pass a Local GO Bond.

(20) Districts will have to reapply each Funding Cycle to receive a commitment for that Funding Cycle. A District will not be able to carry forward any commitments made in previous Funding Cycles.

(21) All decisions of the Department regarding the completeness of the application or ranking under either the Priority List or First in Time process are final.

(22) Any funding remaining after all awards have been made for a Funding Cycle shall be moved forward to the next Funding Cycle.

(23) If there are funds that remain available after the last election in a biennium, those funds will be distributed as follows:

(a) Districts with a partial commitment will be funded starting in order from the first election of the biennium;

(b) Districts that applied for the OSCIM Program and passed a Local GO Bond, but did not receive any funds will be funded starting in order from the first election of the biennium.

(24) When a state of emergency is declared pursuant to ORS 401.165 et. seq., the Department shall determine if the emergency will negatively impact a Funding Cycle and may:

(a) Change any application deadlines stated in (3) or OAR 581-027-0023(2) if the emergency interferes with Districts' abilities to submit the required documents by those deadlines; and

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(b) Allow Districts to withdraw from the election during the affected Funding Cycle and hold their election during the next Funding Cycle.

(25) If Districts withdraw from the affected Funding Cycle, the Department may:

(a) Transfer funding commitments made to Districts during the affected Funding Cycle to the next Funding Cycle; and

(b) Apply the waitlist ranking of the affected Funding Cycle to the next Funding Cycle.

(26) The transfer of funding commitments and waitlist ranking made during the affected Funding Cycle do not impact or change funding commitments or waitlist ranking for the next Funding Cycle that have already been made by the Department.

(27) A District is considered to have withdrawn from an election when it sends its intention to withdraw from the election in writing to the Department.

(28) If multiple Funding Cycles are affected by the declared state of emergency, the Department shall review each Funding Cycle separately.

Statutory/Other Authority: Sec. 2 & 5, Ch. 783 & OL 2015 (Enrolled SB 447)

Statutes/Other Implemented: Sec. 2, 4 & 5, Ch. 783 & OL 2015 (Enrolled SB 447)

History:

[ODE 16-2021, amend filed 05/25/2021, effective 05/25/2021](#)

[ODE 42-2020, amend filed 10/22/2020, effective 10/22/2020](#)

[ODE 16-2020, temporary amend filed 04/23/2020, effective 04/23/2020 through 10/19/2020](#)

[ODE 21-2019, amend filed 06/25/2019, effective 06/25/2019](#)

ODE 7-2017, f. & cert. ef. 6-1-17

ODE 4-2017, f. & cert. ef. 3-1-17

ODE 30-2016, f. & cert. ef. 4-28-16

[581-027-0023](#)

Submission of Facility Assessments and Long-Range Facility Plans as part of Oregon School Capital Improvement Matching Program Grant Application

(1) In order to qualify for an OSCIM Program matching grant, Districts must submit a Facility Assessment and Long-Range Facility Plan as part of their OSCIM Program application. Failure to submit a Facility Assessment and Long-Range Facility Plan will disqualify the District from participation in the OSCIM Program application for that Funding Cycle.

(2) Districts shall submit their Facility Assessment and Long-Range Facility Plan as follows:

(a) On the July 1 that precedes the November Funding Cycles in a biennium; and

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- (b) On the December 1 that precedes the May Funding Cycles in a biennium.
- (3) The Facility Assessment and Long-Range Facility Plan must be submitted electronically to the Department.
- (4) The Department will review all Facility Assessment and Long-Range Facility Plan submissions to ensure compliance with requirements.
- (5) If the Department determines a District's submission does not meet the requirements, the Department will notify the District of the deficiencies.
- (6) The Department may agree to an extension of time, but no more than sixty (60) days from the deadline for OSCIM Program application submission, for the District to correct the deficiencies.
- (7) If a District fails to make the corrections within the agreed upon time, the Department will cancel the District's application and readjust the pre-election commitments made.
- (8) The Facility Assessment must meet the following requirements:
 - (a) Comply with the standards set forth in OAR 581-027-0035;
 - (b) Cover buildings that will be included in the OSCIM Program grant application. A District may include Facility Assessments for more buildings than would be improved using OSCIM Program funds; and
 - (c) Cover a District's current buildings even if the District is applying for the OSCIM Program only for the construction of a new building.
- (9) The Long-Range Facility Plan must meet the following requirements:
 - (a) Comply with the standards set forth in OAR 581-027-0040; and
 - (b) Demonstrate how the new buildings proposed to be built are integrated into the Long-Range Facility Plan.
- (10) Districts are not required to use a Certified Assessor to complete the Facility Assessment or the Long-Range Facility Plan.
- (11) A District may use the same Facility Assessment and Long-Range Facility Plan as a basis for an OSCIM Program application for four (4) years from the year in which the plan was completed.
- (12) The Department's determination of the adequacy of the Facility Assessment and Long-Range Facility Plan is final.

Statutory/Other Authority: ORS 286A.801(8)

Statutes/Other Implemented: ORS 286A.801(2)

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History:

[ODE 16-2021, amend filed 05/25/2021, effective 05/25/2021](#)

[ODE 42-2020, amend filed 10/22/2020, effective 10/22/2020](#)

[ODE 21-2019, amend filed 06/25/2019, effective 06/25/2019](#)

ODE 7-2017, f. & cert. ef. 6-1-17

581-027-0025

Oregon School Capital Improvement Matching Program Grant Restrictions

- (1) A District that receives a State Matching Grant will be ineligible for additional State Matching Grant funds for six (6) years from the year in which the District successfully passed their Local GO Bond.
- (2) A District may not use State Matching Grant funds to refinance other general obligation bonds issued by the District.
- (3) A District must use State Matching Grant funds for capital costs as defined in ORS 286A.796(3).
- (4) A District may use State Matching Grant funds to reimburse the District for capital costs incurred by the District prior to the Funding Cycle in which the District was awarded a grant only if:
 - (a) The Department approves the use of State Matching Grant funds for such purpose; and
 - (b) The District complies with all requirements of the OSCIM Program.
 - (c) The Department's approval or disapproval of the use of State Matching Grant funds is final.
- (5) State Matching Grant funds shall be used only to match the proceeds of Local GO Bonds authorized by an election in the same Funding Cycle in which the District applied for State Matching Grant funds.

Statutory/Other Authority: Sec. 2 & 5, Ch. 783 & OL 2015 (Enrolled SB 447)

Statutes/Other Implemented: Sec. 2, 4 & 5, Ch. 783 & OL 2015 (Enrolled SB 447)

History:

[ODE 34-2020, minor correction filed 08/28/2020, effective 08/28/2020](#)

[ODE 21-2019, amend filed 06/25/2019, effective 06/25/2019](#)

ODE 7-2017, f. & cert. ef. 6-1-17

ODE 4-2017, f. & cert. ef. 3-1-17

ODE 30-2016, f. & cert. ef. 4-28-16

581-027-0030

Technical Assistance Grant Program Procedures

- (1) The Department shall open the application period for the Technical Assistance Grant Program on January 15 of each year and close the application period on February 15 of the same year. If either of

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those dates falls on a weekend or holiday, the preceding Friday will be the effective date of the opening or closing respectively.

(2) The Department shall establish a separate application for each type of grant available.

(3) Each District and Education Service District must submit a separate application for each grant type for which it chooses to apply.

(4) All Districts and Education Service Districts are eligible for each type of grant.

(5) All applications are due by the date established by the Department. No late applications will be accepted.

(6) The Department shall evaluate each completed application by awarding preference points as established by this rule.

(7) An application will receive one (1) point for each preference that the application meets.

(8) An application will receive a final score that is the total of the application's points.

(9) Applications will be funded from highest to lowest score.

(10) If there is not enough funding to provide a Technical Assistance Grant to all applications that have equal scores, then the Department shall create a lottery to determine which applications will receive a Technical Assistance Grant.

(11) The preference points for Districts applying for the Facility Assessment grant are:

(a) District has twenty-five percent (25%) or more of its ADMr identified as Students in Poverty;

(b) District has under 2,500 ADMr according to the annual reports for the same school year as used to calculate the Priority List under OAR 581-027-0010;

(c) District has not conducted a Facility Assessment within ten (10) years or less;

(d) District has not passed a general obligation bond within fifteen (15) years or less;

(e) District's ADMr has changed by ten percent (10%) or more over the last five (5) years based on the latest annual reports submitted to the Department; and

(f) District has completed its annual electronic submission of its building and bond data to the Department by February 15 of each year.

(12) The preference points for Education Service Districts applying for the Facility Assessment grant are:

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(a) The Education Service District has an average of twelve percent (12%) or more of its component school districts' ADMr identified as Students in Poverty;

(b) The Education Service District has under 20,000 Extended ADMw according to the annual reports for the same school year as used to calculate the State School Fund allocations;

(c) The Education Service District has at least one building used for instruction with a student capacity of 10 or more;

(d) The Education Service District has not conducted a Facility Assessment within ten (10) years or less; and

(e) The Education Service District has completed its annual electronic submission of its building and bond data to the Department by February 15 of each year.

(1~~3~~2) The preference points for Districts applying for the Long-Range Facility Plan grant are:

(a) District has twenty-five percent (25%) or more of its ADMr identified as Students in Poverty;

(b) District has under 2,500 ADMr according to the annual reports for the same school year as used to calculate the Priority List under OAR 581-027-0010;

(c) District has not conducted a Long-Range Facility Plan within ten (10) years or less;

(d) District has not passed a general obligation bond within fifteen (15) years or less;

(e) District's ADMr has changed by ten percent (10%) or more over the last five (5) years based on the latest annual reports submitted to the Department; and

(f) District has completed its annual electronic submission of its building and bond data to the Department by February 15 of each year.

(14) The preference points for Education Service Districts applying for the Long-Range Facility Plan grant are:

(a) The Education Service District has an average of twelve percent (12%) or more of its component school districts' ADMr identified as Students in Poverty;

(b) The Education Service District has under 20,000 Extended ADMw according to the annual reports for the same school year as used to calculate the State School Fund allocations;

(c) The Education Service District has at least one building used for instruction with a student capacity of 10 or more;

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(d) The Education Service District has not conducted a Long-Range Facility Plan within ten (10) years or less; and

(e) The Education Service District has completed its annual electronic submission of its building and bond data to the Department by February 15 of each year.

(135) The preference points for Districts applying for the Seismic Assessment grant are:

(a) District has twenty-five percent (25%) or more of its ADMr identified as Students in Poverty;

(b) District has under 2,500 ADMr according to the annual reports for the same school year as used to calculate the Priority List under OAR 581-027-0010;

(c) District has not conducted an assessment for Business Oregon’s Seismic Rehabilitation Grant Program;

(d) District identifies the schools it intends to assess and at least fifty percent (50%) are listed as “High” or “Very High” for collapse potential in the ~~Rapid Visual Survey~~ Rapid Visual Screening data created by the Department of Geology and Mineral Industries;

(e) District’s Mapped Spectral Acceleration for a 1-second period (Ss) is greater than 0.6 as calculated by the United States Geological Survey; and

(f) District has completed its annual electronic submission of its building and bond data to the Department by February 15 of each year.

(16) The preference points for Education Service Districts applying for the Seismic Assessment grant are:

(a) The Education Service District has an average of twelve percent (12%) or more of its component school districts’ ADMr identified as Students in Poverty;

(b) The Education Service District has under 20,000 Extended ADMw according to the annual reports for the same school year as used to calculate the State School Fund allocations;

(c) The Education Service District has at least one building used for instruction with a student capacity of 10 or more;

(d) The Education Service District’s Mapped Spectral Acceleration for a 1-second period (Ss) is greater than 0.6 as calculated by the United States Geological Survey; and

(e) The Education Service District has completed its annual electronic submission of its building and bond data to the Department by February 15 of each year.

(174) The preference points for Districts applying for the Asbestos Environmental Hazard Assessment grant are:

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- (a) District has twenty-five percent (25%) or more of its ADMr identified as Students in Poverty;
- (b) District has under 2,500 ADMr according to the annual reports for the same school year as used to calculate the Priority List under OAR 581-027-0010;
- (c) District has at least 50% or more of its schools built before 1980;
- (d) District's needs to provide training to a staff person to oversee asbestos-related activities and/or needs to provide asbestos awareness training to custodial staff;
- (e) District is due to conduct its 3-year re-inspection of asbestos-containing material in each school facility; and
- (f) District has completed its annual electronic submission of its building and bond data to the Department by February 15 of each year.

(18) The preference points for Education Service Districts applying for the Asbestos Environmental Hazard Assessment grant are:

- (a) The Education Service District has an average of twelve percent (12%) or more of its component school districts' ADMr identified as Students in Poverty;
- (b) The Education Service District has under 20,000 Extended ADMw according to the annual reports for the same school year as used to calculate the State School Fund allocations;
- (c) The Education Service District needs to provide training to a staff person to oversee asbestos-related activities and/or needs to provide asbestos awareness training to custodial staff;
- (d) The Education District is due to conduct its 3-year re-inspection of asbestos-containing material in each facility; and
- (e) The Education Service District has completed its annual electronic submission of its building and bond data to the Department by February 15 of each year.

(195) The preference points for Districts apply to the Radon Environmental Hazard Assessment grant are:

- (a) District has twenty-five percent (25%) or more of its ADMr identified as Students in Poverty;
- (b) District has under 2,500 ADMr according to the annual reports for the same school year as used to calculate the Priority List under OAR 581-027-0010;
- (c) District has school and administrative buildings that have not been tested for radon, or district has school and administrative buildings that had testing completed after July 1 of the preceding year;

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(d) District's radon risk level is either "High" or "Not Assigned" according to information published by the Oregon Health Authority that provides for radon risk levels based on geography;

(e) District has a school that qualifies as a remote small elementary school per ORS 327.077; and

(f) District has completed its annual electronic submission of its building and bond data to the Department by February 15 of each year.

(20) The preference points for Education Service Districts apply to the Radon Environmental Hazard Assessment grant are:

(a) The Education Service District has an average of twelve percent (12%) or more of its component school districts' ADMr identified as Students in Poverty;

(b) The Education Service District has under 20,000 Extended ADMw according to the annual reports for the same school year as used to calculate the State School Fund allocations;

(c) The Education Service District has instructional spaces or administrative buildings that have not been tested for radon in the last 10 years or more;

(d) The Education Service District's radon risk level is either "High" or "Not Assigned" according to information published by the Oregon Health Authority that provides for radon risk levels based on geography; and

(e) The Education Service District has completed its annual electronic submission of its building and bond data to the Department by February 15 of each year.

(2116) A District or Education Service District that is awarded a Technical Assistance Grant must:

(a) Enter into a grant agreement with the Department by the time specified by the Department;

(b) Use a Certified Assessor to perform a Facility Assessment or Long-Range Facility Plan;

(c) Provide the Department with an electronic copy of any final reports required by the Technical Assistance Grant; and

(d) Provide the Department with an electronic copy of invoices showing expenses incurred in performing the work for the specific Technical Assistance Grant.

(2217) A District or Education Service District must reapply each time a new grant application is announced if ita District did not receive a grant in the previous a-grant application period.

(2318) A District or Education Service District may apply to the Technical Assistance Program to be reimbursed ~~the District~~ for assessments previously completed if:

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- (a) The previous assessment work was started within six (6) months of the application period;
 - (b) The previous assessments meet all requirements set forth for the type of ~~the~~ assessment in these administrative rules; and
 - (c) The ~~Grantee District~~ submits a final copy of the report and all invoices within the required period for a Technical Assistance Program grant.
- (~~2419~~) ~~Districts-Grantees~~ must submit all final reports and invoices by the date specified by the Department. If a ~~District-Grantee~~ does not meet that deadline, the Department may rescind their grant funds.
- (~~250~~) A District or Education Service District that receives a Technical Assistance Program grant will be ineligible to reapply for that specific grant for four (4) years from the year the grant was issued.

Statutory/Other Authority: Sec. 2, 5, Ch. 783 & OL 2015 (Enrolled Senate Bill 447)

Statutes/Other Implemented: Sec. 5, Ch. 783 & OL 2015 (Enrolled Senate Bill 447)

History:

[ODE 37-2021, amend filed 10/26/2021, effective 10/26/2021](#)

[ODE 42-2020, amend filed 10/22/2020, effective 10/22/2020](#)

[ODE 21-2019, amend filed 06/25/2019, effective 06/25/2019](#)

[ODE 32-2018, amend filed 10/19/2018, effective 10/21/2018](#)

ODE 7-2017, f. & cert. ef. 6-1-17

ODE 4-2017, f. & cert. ef. 3-1-17

ODE 41-2016, f. & cert. ef. 7-20-16

[581-027-0035](#)

Facility Assessment Requirements

Each Facility Assessment shall contain:

- (1) Name of Building.
- (2) Building ID Number.
- (3) Physical Address.
- (4) Gross Square Footage.
- (5) Original Construction Date.
- (6) Original Construction Type.
- (7) Additions:

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(a) Construction Date;

(b) Construction Type;

(c) Construction Square footage; and

(d) Addition Construction Usage.

(8) Renovations:

(a) Construction Date;

(b) Construction Type;

(c) Construction Square Footage; and

(d) Renovation Construction Usage.

(9) UNIFORMAT II Infrastructure Assessment: An assessment of each applicable building element as listed in the American Society for Testing and Materials (ASTM) UNIFORMAT II Classification (October 1999) of Building Elements Level 3 that provides the following:

(a) ASTM Number;

(b) System Name;

(c) Description of System;

(d) Number of systems or square footage of system in need of repair or want of replacement;

(e) Level of repair/replacement needed. The percent of the building affected should be noted to assist in cost estimating; and

(f) Notes as to what specifically needs to be done to repair or replace the system.

(10) Additional items:

(a) A safety and security analysis of the facility that determines if the facility meets current best practices for providing a safe and secure environment;

(b) An ADA assessment and listing of deficiencies;

(c) Assessment of technology infrastructure in the facility including bandwidth, type of internet connection, presence of wireless networks, and other means of providing access to information technology;

(d) Assessment of indoor air quality; and

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(e) Presence of harmful substances such as lead or asbestos in the facility based on District reports.

(11) Value Assessment:

(a) The current replacement value of the building using cost per square foot standards as determined by the Department and updated annually; and

(b) The Facilities Condition Index of the building as calculated by dividing the total estimated construction costs to completely repair the building by the current replacement value of the building.

(12) All information submitted electronically to the Department on a Department-established template which shall be used by Districts and Certified Assessors.

Statutory/Other Authority: Sec. 2 and 5, Ch. 783 & OL 2015 (Enrolled Senate Bill 447)

Statutes/Other Implemented: Sec. 5, Ch. 783 & OL 2015 (Enrolled Senate Bill 447)

History:

[ODE 42-2020, amend filed 10/22/2020, effective 10/22/2020](#)

[ODE 21-2019, amend filed 06/25/2019, effective 06/25/2019](#)

ODE 7-2017, f. & cert. ef. 6-1-17

ODE 4-2017, f. & cert. ef. 3-1-17

ODE 41-2016, f. & cert. ef. 7-20-16

[581-027-0040](#)

Long-Range Facility Plan Requirements

Each Long-Range Facility Plan shall contain the following information:

(1) Population projections by school age group for the next ten (10) years using U.S. Census or Census partner data.

(2) Collaboration with local government planning agencies (city and/or county) that results in:

(a) Identification of suitable school sites if needed; and

(b) Site acquisition schedules and programs.

(3) Evidence of community involvement in:

(a) Determining educational vision of local community;

(b) Reviewing the costs of identified improvements;

(c) Prioritizing the identified improvements; and

(d) Determining potential sources of funds for the improvements.

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(4) Identification of buildings on historic preservation lists including the National Historic Register, Oregon State Historic Preservation Office, and local historic building lists.

(5) A rating or indication of the degree to which [the instructional spaces at](#) each of the District's [or Education Service District's](#) campuses meets the Department's Educational Adequacy Review Standards as described in OAR 581-027-0043.

(6) If current facilities are unable to meet Department Educational Adequacy Review Standards, the District will then:

(a) Identify changes needed to bring current facilities up to a good or excellent rating against the Department's Educational Adequacy Review Standards; and

(b) Identify potential alternatives to new construction or major renovation of current facilities.

Statutory/Other Authority: Sec. 2, 5, Ch. 783 & OL 2015 (Enrolled Senate Bill 447)

Statutes/Other Implemented: Sec. 5, Ch. 783 & OL 2015 (Enrolled Senate Bill 447)

History:

[ODE 37-2021, amend filed 10/26/2021, effective 10/26/2021](#)

[ODE 42-2020, amend filed 10/22/2020, effective 10/22/2020](#)

[ODE 21-2019, amend filed 06/25/2019, effective 06/25/2019](#)

ODE 7-2017, f. & cert. ef. 6-1-17

ODE 4-2017, f. & cert. ef. 3-1-17

ODE 41-2016, f. & cert. ef. 7-20-16

[581-027-0043](#)

Educational Adequacy Review Standards

The standards are to be used for facilitating discussions around capital planning and improvement. These standards focus on five primary facets of school facilities that directly correlate to student outcomes.

(1) The Acoustic Educational Adequacy Standard reviews whether:

(a) The sound-conditioning in a given space is acoustically comfortable to permit instructional activities to take place;

(b) Sound is transmitted without interfering with adjoining instructional spaces; and

(c) The ventilation system does not transmit an inordinate sound level to the instructional program.

(2) The Air Quality Education Adequacy Standard reviews whether the District implements an Indoor Air Quality Management Program at each of its campuses.

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(3) The Lighting Educational Adequacy Standard reviews whether:

(a) Light design generates an illumination level that provides comfortable and adequate visual conditions in each educational space;

(b) Ceilings and walls are white or light-colored for high reflectance unless the function of space dictates otherwise;

(c) Lights do not produce glare or block the line of sight;

(d) Window treatment allows entrance of daylight but does not cause excessive glare or heat gain; and

(e) Fixtures provide an even light distribution throughout the learning area.

(4) The Temperature Education Adequacy Standard reviews whether the school's heating and cooling system provides consistent thermal comfort to students and teachers year-round.

(5) The School Capacity Educational Adequacy Standard reviews whether:

(a) The school can support its projected enrollment; and

(b) The student population is within the limits of the school's capacity based on the district's classroom loading standards.

(6) Districts and Certified Assessors may use additional educational adequacy review standards as deemed appropriate for the facilities.

(7) The required educational adequacy review standards may only be substituted for more comprehensive and/or quantitative standards if the District and Certified Assessor agree this is needed.

Statutory/Other Authority: ORS 326.125(4)

Statutes/Other Implemented: ORS 326.125(4)

History:

[ODE 37-2021, adopt filed 10/26/2021, effective 10/26/2021](#)

581-027-0045

Seismic Assessment Requirements

Each Seismic Assessment shall contain the following:

(1) Name of Building.

(2) Gross Square Footage of Building.

(3) Physical Address.

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(4) Original Construction Date.

(5) Original Construction Type.

(6) Additions:

(a) Construction Date;

(b) Construction Type;

(c) Construction Square Footage; and

(d) Construction Usage.

(7) Procedures used to determine the building's ability to meet the Basic Performance Objective for Existing Buildings (BPOE) in ASCE 41-17. Specifically:

(a) The building's ability to perform to the Limited Safety Structural Performance Level at the BSE-2E hazard level in ASCE 41-17 if building is categorized as Risk Category III, school buildings, not including areas which may be used as emergency shelters, under OAR 123-051-0600; or

(b) The building's ability to perform to the Life Safety Structural Performance Level at BSE-2E hazard level AND the Immediate Occupancy Structural Performance Level at the BSE-1E hazard level in ASCE 41-17 if building is categorized as Risk Category IV, emergency service buildings and school areas that may be used as emergency shelters, under OAR 123-051-0600.

(8) List of deficiencies that need to be corrected to qualify building to meet the Basic Performance Objective for Existing Buildings in accordance with ASCE 41-17.

(9) List of drawings illustrating schematic rehabilitation tasks to rectify listed deficiencies in accordance with ACSE 41-17 standard.

(10) Cost estimate provided by professional with knowledge about the type of work to be done that includes contingencies built into all budget categories.

(11) Certification of the final assessment provided by registered Structural Engineer licensed in the State of Oregon.

Statutory/Other Authority: Sec. 2 and 5, Ch. 783 & OL 2015 (Enrolled Senate Bill 447)

Statutes/Other Implemented: Ch. 783, OL 2015 (Enrolled Senate Bill 447) & Sec. 5

History:

[ODE 42-2020, amend filed 10/22/2020, effective 10/22/2020](#)

[ODE 21-2019, amend filed 06/25/2019, effective 06/25/2019](#)

[ODE 12-2019, amend filed 04/22/2019, effective 04/22/2019](#)

[ODE 42-2018, amend filed 12/10/2018, effective 12/10/2018](#)

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ODE 7-2017, f. & cert. ef. 6-1-17

ODE 4-2017, f. & cert. ef. 3-1-17

ODE 41-2016, f. & cert. ef. 7-20-16

581-027-0050

Assessor Certification Program

(1) The Department shall establish a program whereby entities or individuals can apply to become Certified Assessors for the Technical Assistance Program.

(2) The program shall contain a portion of instruction on the methods to be used by Certified Assessors in performing Facility Assessment and Long-Range Facility Plan work.

(3) The program shall contain a test such that those that pass will become Certified Assessors.

(4) The Department shall post on its website specific information for each time the training program is held.

(5) The requirements for individuals to apply to the Certified Assessor Program are:

(a) The applicant must be legally able to work under a public contract in the State of Oregon;

(b) The applicant must be an architectural and/or engineering professional who has at least 5 years of experience working with K-12 schools.

(c) The applicant must demonstrate capacity for assessing whole-building systems for schools.

~~(6)~~ No individual may become a Certified Assessor unless:

(a) They meet the requirements to apply for the program;

(b) Attend and complete the training for Certified Assessors; and

(c) Pass a written examination at the end of the training program.

Statutory/Other Authority: ORS 286A.801(8)

Statutes/Other Implemented: ORS 286A.801(2)

History:

[ODE 37-2021, amend filed 10/26/2021, effective 10/26/2021](#)

[ODE 35-2020, minor correction filed 08/28/2020, effective 08/28/2020](#)

[ODE 21-2019, amend filed 06/25/2019, effective 06/25/2019](#)

ODE 7-2017, f. & cert. ef. 6-1-17

ODE 4-2017, f. & cert. ef. 3-1-17

ODE 41-2016, f. & cert. ef. 7-20-16

Oregon State Board of Education

January 18, 2024

AGENDA ITEM:

MEMORANDUM OF AGREEMENT
Between
THE ROGUE RIVER SCHOOL DISTRICT
And
THE CONFEDERATED TRIBES OF SILETZ INDIANS
("CTSI")

I. BACKGROUND

The Confederated Tribes of Siletz Indians ("CTSI") is a federally recognized Indian Tribe comprised of more than 27 tribes and bands confederated on the Siletz Coast Reservation and originating from all parts of Oregon west of the summit of the Cascade Range, as well as parts of Northern California and Southwest Washington. The Rogue River School District schools are located within the traditional areas of interest of CTSI.

Education is a priority for CTSI. CTSI operates a Head Start program, a tribal daycare and preschool, and has developed curriculum and continues support for Dee-ne language learning for K-12 students in the Siletz Valley School. In addition, CTSI provides Dee-ne language and culture classes for adult learners, as well as on-line history and language resources. CTSI's Education Department offers a variety of programs to help equip Tribal members with the knowledge and skills needed to prosper, support their families, and enhance their community. CTSI has developed Tribal curriculum for grades K-12 with development of ODE's 9 Essential Understanding lessons, available through the Oregon Department of Education.

The Rogue River School District ("District") is a public entity serving students in Jackson and Josephine Counties. The District provides education services for children in grades Pre-school through 12. The Rogue River Junior/Senior High School ("RRJSHS") Mascot is the Chieftains. The RRJSHS utilizes an emblem of a spear with feather. This name/symbol combination is significant because it is identified with the indigenous peoples of North America, which includes members of CTSI.

II. GOALS

A. Goals of CTSI

- a. To build respect and understanding of CTSI's history and culture.
- b. To give all youth the opportunity to learn CTSI's language and history, including access to curriculum and materials developed by CTSI.
- c. To foster a culturally respectful representation of Native American culture and symbolism with respect and pride.
- d. To serve in an advisory capacity to the Board in the areas of cultural diversity, educational equity, and curriculum development on the Board's Curriculum and Instruction Committee.

B. Goals of District

- a. To foster respect and informed understanding of CTSI and other Native Americans.
- b. To adopt a culturally appropriate and respectful mascot/emblem/symbol.
- c. To properly educate the District's students about Native American history.
- d. To have CTSI serve in an advisory capacity to the Board in the areas of cultural diversity, educational equity and curriculum development on the Board's Curriculum and Instruction Committee.

III. MASCOT LEGISLATION

This Agreement between Rogue River School District and Confederated Tribes of Siletz Indians is intended to satisfy all the requirements of Oregon law, as set forth in Or. Rev. Stat. §332.075 and Oregon Administrative Rules.

The Confederated Tribes of Siletz Indians has determined and declares that the Chieftain and spear mascot represents, is associated with, or is significant to the Tribe, and that the Rogue River School District is located within the traditional area of interest of the Tribe.

IV. EFFECTIVE DATE AND PERIOD OF AGREEMENT

This Agreement is effective upon signature of the authorized officials of the Rogue River School District and the Confederated Tribes of Siletz Indians. This Agreement may be amended when the State Board of Education adopts the required rules under Or. Rec. Stat. Ann. §332.075. The term of the Agreement is for 5 years from the date the Agreement is approved by the State Board of Education. The Agreement must be reviewed and renewed every five years thereafter. Renewal of this Agreement will require approval by the District, and the CTSI, and the State Board of Education.

V. ELEMENTS OF THE AGREEMENT

A. Acceptable use of Mascot

The RRJSHS Mascot is the Chieftains. The current Mascot image is a spear and feather. The CTSI and District shall meet to ensure that the current mascot is culturally appropriate. The mascot and the use of the name "Chieftains" may be used as follows: as a sports mascot, on all sports equipment and facilities, and used in school spirit merchandise, signs, letterhead, and documents.



The District may approach the Tribe to amend this Agreement to include additional acceptable uses not listed here.

The images currently used or possibly to be used are attached as an Exhibit. Any additional or new images shall be provided to CTSI for approval prior to use.

B. Curriculum

CTSI has developed Tribal curriculum, for grades K-12 (released August 2022). The curriculum was created because of the need for historically accurate and culturally relevant curriculum in Oregon schools about Oregon Native Tribes. The District agrees to use the curriculum as provided by the CTSI without revision, unless approved by the CTSI. In addition, the CTSI and the District will work to incorporate into classroom education culturally appropriate materials and activities to educate all students in the district about the history and culture of the CTSI and Native people. Classroom teaching shall include, but not limited to, history of the

CTSI, information on governmental structure of the CTSI, Federal Indian Policy in the United States, and cultural practices of the CTSI. CTSI agrees to be a resource for information and materials, including through the Tribe's designated contact: Alissa Lane-Keene, Education & Cultural Programs Director and through its websites ctsi.nsn.us and siletzlanguage.org .

C. Advisory Member of Committees

The District agrees to add an Advisory Committee member position representing the Tribe ("Advisory Member"). The Committee Member shall be entitled to attend all meetings of the Curriculum & Instruction Committee, and to participate in discussions and should have all the rights and privileges of the Committee Members. The Advisory Member will be eligible for formal voting and quorum decisions by the committee.

- D. In-service: The school and CTSI will work together to establish an in-service for staff, teachers, and volunteers on CTSI history, culture and acceptable Mascot and Logo use, which will be provided at least once per school year.

Native Club: The school shall allow and support a Native Club for all students grades 6-12 that desire to participate. The School District agrees to treat the club in the same manner as all school clubs as mentioned in policy IGDA.VI.

ENFORCEMENT AND DISPUTES

Each party to the Agreement shall appoint a minimum of one (1) representative each to respond to inquiries about issues addressed in or affected by the MOA. These representatives shall oversee the implementation of the provisions set forth in this MOA and address ongoing student issues.

The representatives shall make recommendations to the parties as how the MOA might be improved based on their experience, and the parties shall consider those recommendations during the annual review of the Agreement.

- A. **Dispute Resolution:** In the event disputes arise out of or that are related to the Agreement, the parties hereby agree upon the following dispute resolution methods:
 - a. In the event either party believes that the other party has breached this Agreement, the party alleging any breach shall give written notice to the other party in the manner provided herein. The notice

shall identify the specific provisions of the Agreement alleged to have been breached and shall specify the factual basis for the breach. The other party shall have thirty (30) days in which to remedy the breach or provide a written response as to why no breach has occurred.

- b. If the party alleging the breach is unsatisfied with the response, the parties agree to meet within (30) days of the date of receipt of the written response in an effort to resolve the dispute.
- c. In the event the dispute cannot be resolved informally between the parties, the dispute shall be submitted to a mediator agreed upon by the parties as soon as reasonably practicable after the informal meeting. In the absence of agreement, each party shall select a temporary mediator and the temporary mediators shall jointly select the permanent mediator. The mediation fees and mediator's expenses shall be shared equally between the parties. The parties agree to exercise their best efforts and good faith to resolve the dispute.

In the event a dispute cannot be resolved by the process described above, either party may, in its discretion, terminate this Agreement. Ample notice will be provided to the other party and a plan for termination activities established; in no case will termination be final prior to the end of the current school year.

VII. GOVERNING LAW

This Agreement and all disputes arising out of or related to this Agreement will be governed by the laws of the Confederated Tribes of Siletz Indians. In no event shall this or any other provision of the Agreement be construed as a waiver of sovereign immunity of the Confederated Tribes of Siletz Indians.

IN WITNESS WHEREOF, the parties have executed the Memorandum of Agreement as the effective date.

CONFEDERATED TRIBES OF SILETZ INDIANS (CTSI)



Tribal Council Chairman

02/27/2023

Date


ROGUE RIVER SCHOOL DISTRICT



School District Superintendent

3-22-23

Date



School Board Chairperson

3/21/23

Date

Oregon State Board of Education

January 18, 2024

AGENDA ITEM: 5B

<p>SUBJECT: Native American Mascot Agreement: Rogue River School District and the Confederated Tribes of the Siletz Indians</p> <p>STAFF NAME & OFFICE: Emily Nazarov, Director’s Office</p> <p>A public school may use a mascot that represents, is associated with or is significant to a Native American Tribe only if the public school enters into an approved written agreement with that federally recognized Native American Tribe. The State Board of Education shall approve an agreement if the agreement meets the requirements of ORS 332.075 and OAR 581-021-0047.</p>	<p><input checked="" type="checkbox"/> First Reading</p> <p><input checked="" type="checkbox"/> Presentation</p> <p><input type="checkbox"/> No Presentation</p> <p><input type="checkbox"/> Action</p> <p><input type="checkbox"/> Temp Rule Presentation</p> <p><input type="checkbox"/> No Presentation</p>
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BACKGROUND

In 2012 in Oregon, fifteen high schools had Native American mascots—with names such as the “Warriors,” the “Braves,” the “Chieftains,” the “Indians,” and the “Indian Eagles.” Many of these communities also had images as part of their mascot which are meant to depict Native Americans. In all cases, the schools and communities believe they are respectfully honoring Native Americans. Some Oregon tribal members also view the mascots as allowing Native Americans to have a visible presence in communities. It is also believed that the mascots also serve as a catalyst for other discussions between Oregon tribes and public schools relating to tribal history and culture.

The Oregon State Board of Education has been given the responsibility by the Oregon Legislature in state statute to ensure that persons are not subjected to unlawful discrimination in our public schools on the basis of race, color, religion, sex, sexual orientation, national origin, marital status, age or disability. Native American students are also entitled to an educational environment that is not hostile and is conducive to the attainment of educational goals.

In 2012, after consideration of these issues and hearing extensive public testimony, the board adopted a resolution and a rule which prohibited public schools from using Native American mascots on or after July 1, 2017.

The 2014 Legislature adopted SB 1509 (ORS 332.075(1)(g)) which provides an exception to the State Board’s mascot ban and included the following components:

- Allows districts that enter into an agreement with an Oregon federally recognized Native American Tribe to use a mascot that represents, is associated with or is significant to the tribe. Agreement must be approved by the state board.
- Directs the state board to adopt rules relating the agreement and the agreement approval process.
- Directs the state board to consult with the tribes as part of the rule adoption process.
- Directs the state board to approve an agreement if the agreement meets the requirements of ORS 332.075(1)(g) and OAR 581-021-0047.

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In January 2016, the State Board of Education amended OAR 581-021-0047 based on the requirements of SB 1509. The board adopted requirements for the mascot agreements which included both process and content requirements.

Pursuant to ORS 332.075(1)(g) and OAR 581-021-0047, Department staff created a checklist to analyze whether an agreement meets the requirements of the statute and law. The checklist contains both the process and content requirements adopted by the State Board.

In 2017, the Rogue River School District and the Confederated Tribes of the Siletz Indians entered into an agreement for the use of a Native American mascot. The State Board approved the agreement in June 2017. The effective date of the agreement was 3-31-2017. The term of the agreement was five years. The original agreement allows for renewal. Under the original agreement, renewal requires approval by the Rogue River School District, the Confederated Tribes of the Siletz Indians and the State Board of Education.

SUMMARY OF PREVIOUS BOARD ACTION

The State Board approved the original agreement between Rogue River School District and The Confederated Tribes of the Siletz Indians in June 2017.

POLICY ISSUE OR CONCERNS

The agreement before the board is a renewal of the original agreement entered into in 2017. The original agreement was approved by the Board in June 2017.

For the purpose of this renewal view, staff have read the renewal contract to determine (1) whether the parties complied with the process for renewal established in the original agreement and (2) whether there are any changes to the original agreement such that the agreement would no longer be subject to approval.

1. Process for renewal

The original agreement states that the agreement must be reviewed and renewed every five years. The agreement further states that renewal will require approval by the District, The Confederated Tribes of the Siletz Indians, and the State Board of Education.

The renewal agreement has been approved and signed by The Confederated Tribes of the Siletz Indians and then Rogue River School District. The only remaining step for the renewal process is approval by the State Board of Education.

2. Changes to the agreement and impact of those changes

The original agreement provided that the Confederated Tribes of the Siletz Indians had developed, and the Rogues Rover School District would use, curriculum for grades 4 and 8. The renewal agreement

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states that the curriculum developed by the Confederated Tribes of the Siletz Indians now covers grades k-12.

The renewal agreement contains a new provision stating that the Tribe and District will work together to establish an in-service for staff, teachers, and volunteers on CTSI history, culture and acceptable Mascot and Logo use, to be provided at least once per school year.

The renewal agreement contains a new provision stating that the District will allow and support a Native Club for all students grades 6-12 that desire to participate.

The changes noted above do not take the agreement outside of the Board’s approval. In other words, the renewal agreement meets the requirements of ORS 332.075(1)(g) and OAR 581-021-0047.

EQUITY IMPACT ANALYSIS

In January 2016, the State Board of Education adopted requirements for the mascot agreements which included both process and content requirements. As part of this process the State Board consulted with Oregon’s tribes.

The process requirements ensure that members of the public have an opportunity to comment on the agreement at the local level. The process also ensures that the district and tribe negotiate an agreement that ideally forms the foundation for a continuing relationship that benefits all students within the district. The content requirements address some of the issues relating to equity that arose during the mascot discussions. For example, the agreements are required to have certain civil rights and harassment and bullying policies as appendices. Additionally, the agreements require the approval of both the governing bodies of the district and tribe. Other requirements are delineated on the attached checklist.

FISCAL ANALYSIS

There is no fiscal impact to the Department of Education as a result of approval of the renewal agreement between the Rogue River School District and the Confederated Tribes of the Siletz Indians.

EFFECT OF A “YES” OR “NO” VOTE

A “yes” vote approves the renewal agreement between the Rogue River School District and the Confederated Tribes of the Siletz Indians.

STAFF RECOMMENDATION

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

ATTACHMENTS

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- Attachment 1: Memorandum of Agreement Between The Rogue River School District and The Confederated Tribes of the Siletz Indians, effective date 3-22-2023 (Renewal)
- Attachment 2: Memorandum of Agreement Between The Rogue River School District and The Confederated Tribes of the Siletz Indians, effective date 3-31-2017 (Original Agreement)
- Attachment 3: Compliance checklist for renewal agreement

MEMORANDUM OF AGREEMENT
Between
THE ROGUE RIVER SCHOOL DISTRICT
And
THE CONFEDERATED TRIBES OF SILETZ INDIANS
(“CTSI”)

I. BACKGROUND

The Confederated Tribes of Siletz Indians (“CTSI”) is a federally recognized Indian Tribe comprised of more than 27 tribes and bands confederated on the Siletz Coast Reservation and originating from all parts of Oregon west of the summit of the Cascade Range, as well as parts of Northern California and Southwest Washington. The Rogue River School District schools are located within the traditional area of interest of CTSI.

Education is a priority for CTSI. CTSI operates a Head Start program, a tribal daycare and preschool, and has developed curriculum and continues support for Dee-ne language learning for K-12 students in the Siletz Valley School. In addition, CTSI provides Dee-ne language and culture classes for adult learners, as well as on-line history and language resources. CTSI’s Education Department offers a variety of programs to help equip Tribal members with the knowledge and skills needed to prosper, support their families, and enhance their community. CTSI has developed a history curriculum, geared to the fourth grade level that will be available for use by January 1, 2017, and anticipates development of a similar curriculum for the eighth grade at a date mutually agreed upon in the future.

The Rogue River School District (“District”) is a public entity serving students in Jackson and Josephine Counties. The District provides education services for children in grades Pre-school through 12. The Rogue River Junior/Senior High School (“RRJSHS”) Mascot is the Chieftains. The RRJSHS utilizes an emblem of a spear with feather. This name/symbol combination is significant because it is identified with the indigenous peoples of North America, which includes members of CTSI.

II. GOALS

A. Goals of CTSI

- a. To build respect and understanding of CTSI's history and culture.
- b. To give all youth the opportunity to learn CTSI's language and history, including access to curriculum and materials developed by CTSI.
- c. To foster a culturally respectful representation of Native American culture and symbolism with respect and pride.
- d. To serve in an advisory capacity to the Board in the areas of cultural diversity, educational equity, and curriculum development on the Board's Curriculum and Instruction Committee.

B. Goals of District

- a. To foster respect and informed understanding of CTSI and other Native Americans.
- b. To adopt a culturally appropriate mascot/emblem/symbol.
- c. To properly educate the District's students about Native American history.
- d. To have CTSI serve in an advisory capacity to the Board in the areas of cultural diversity, educational equity and curriculum development on the Board's Curriculum and Instruction Committee.

III. MASCOT LEGISLATION

This Agreement between Rogue River School District and Confederated Tribes of Siletz Indians is intended to satisfy all the requirements of Oregon law, as set forth in Or. Rev. Stat. §332.075 and Oregon Administrative Rules.

The Confederated Tribes of Siletz Indians has determined and declares that the Chieftain and spear mascot represents, is associated with, or is significant to the Tribe, and that the Rogue River School District is located within the traditional area of interest of the Tribe.

IV. EFFECTIVE DATE AND PERIOD OF AGREEMENT

This Agreement is effective upon signature of the authorized officials of the Rogue River School District and the Confederated Tribes of Siletz Indians. This Agreement may be amended when the State Board of Education adopts the required rules under Or. Rev. Stat. Ann. §332.075. The term of the Agreement is for 5 years from the date the Agreement is approved by the State Board of Education. The Agreement must be reviewed and renewed every five years thereafter. Renewal of this Agreement will require approval by the District, and the CTSI, and the State Board of Education.

V. ELEMENTS OF THE AGREEMENT

A. Acceptable uses of Mascot

The RRJSHS Mascot is the Chieftains. The current Mascot image is a spear and feather. The CTSI and District shall meet to ensure that the current mascot is culturally appropriate. The mascot and the use of the name “Chieftains” may be used as follows: as a sports mascot, on all sports equipment and facilities, and used in school spirit merchandise, signs, letterhead, and documents.

The District may approach the Tribe to amend this Agreement to include additional acceptable uses not listed here.

The images currently used or possibly to be used are attached as an Exhibit. Any additional or new images shall be provided to CTSI for approval prior to use.

B. Curriculum

CTSI has developed a history curriculum, geared to the fourth grade level that will be available for use by January 1, 2017, and anticipates development of a similar curriculum for the eighth grade at a date mutually agreed upon in the future. The curriculum was created because of the need for historically accurate and culturally relevant curriculum in Oregon schools about Oregon Native Tribes. The District has reviewed the curriculum and agrees to begin integrating the curriculum on or before September of 2017. The District agrees to use the curriculum as provided by the CTSI without revision, unless approved by the CTSI. In addition, the CTSI and District will work to incorporate into classroom education culturally appropriate materials and activities to educate all students in the district about the history and culture of the CTSI and Native people. Classroom teaching shall include, but not be limited to, history of the CTSI, information on governmental

structure of the CTSI, Federal Indian Policy in the United States, and cultural practices of the CTSI. CTSI agrees to be a resource for information and materials, including through the Tribe's designated contact, Brenda Bremner, General Manager and through its websites ctsi.nsn.us and siletzlanguage.org.

C. Advisory Member of Committees

The District agrees to add an Advisory Committee member position representing the Tribe ("Advisory Member"). The Committee Member shall be entitled to attend all meetings of the Curriculum & Instruction Committee, and to participate in discussions and should have all the rights and privileges of the Committee Members. The Advisory Member will be eligible for formal voting and quorum decisions by the committee.

VI. ENFORCEMENT AND DISPUTES

Each party to this Agreement shall appoint a minimum of one (1) representative each to respond to inquiries about issues addressed in or affected by the MOA. These representatives shall oversee the implementation of the provisions set forth in this MOA and address ongoing student issues.

The representatives shall make recommendations to the parties as how the MOA might be improved based on their experience, and the parties shall consider those recommendations during the review of the Agreement.

A. Dispute Resolution: In the event disputes arise out of or that are related to this Agreement, the parties hereby agree upon the following dispute resolution methods:

- a.** In the event either party believes that the other party has breached this Agreement, the party alleging any breach shall give written notice to the other party in the manner provided herein. The notice shall identify the specific provisions of the Agreement alleged to have been breached and shall specify the factual basis for the breach. The other party shall have thirty (30) days in which to remedy the breach or provide a written response as to why no breach has occurred.

- b. If the party alleging the breach is unsatisfied with the response, the parties agree to meet within (30) days of the date of receipt of the written response in an effort to resolve the dispute.
- c. In the event the dispute cannot be resolved informally between the parties, the dispute shall be submitted to a mediator agreed upon by the parties as soon as reasonably practicable after the informal meeting. In the absence of agreement, each party shall select a temporary mediator and the temporary mediators shall jointly select the permanent mediator. The mediation fees and mediator's expenses shall be shared equally between the parties. The parties agree to exercise their best efforts and good faith to resolve the dispute.

In the event a dispute cannot be resolved by the process described above, either party may, in its discretion, terminate this Agreement. Ample notice will be provided to the other party and a plan for termination activities established; in no case will termination be final prior to the end of the current school year.

VII. GOVERNING LAW

This Agreement and all disputes arising out of or related to this Agreement will be governed by the laws of the Confederated Tribes of Siletz Indians. In no event shall this or any other provision of the Agreement be construed as a waiver of sovereign immunity of the Confederated Tribes of Siletz Indians.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Agreement as of the effective date.

CONFEDERATED TRIBES OF SILETZ INDIANS

Deborah Leasing 3/31/17
Tribal Council Chairman Date

ROGUE RIVER SCHOOL DISTRICT

Paul C. Young 3/30/17
School District Superintendent Date

Debra J. Smith 3/30/17
School Board Chairperson Date



School Mascot Agreement Checklist

This is a checklist for use by the Oregon Department of Education reviewing an agreement between a school district or public charter school and a Native American tribe. Pursuant to ORS 332.075, a public school may use a mascot that represents, is associated with or is significant to a Native American Tribe only if the public school enters into an approved written agreement with that federally recognized Native American Tribe. The agreement must meet the requirements of state statute and rule and be approved by the State Board of Education. The State Board of Education shall approve an agreement if the agreement meets the requirements of ORS 332.075 and OAR 581-021-0047.

School District:	Rogue River School District
Native American Tribe:	The Confederated Tribes of Siletz Indians
Agreement	Memorandum of Agreement between the Rogue River School District and the Confederated Tribes of the Siletz Indians Effective date: March 22, 2023
School Mascot covered by the Agreement:	The Mascot is the Chieftains. The current Mascot image is a spear and feather.

Requirements for Agreement established in ORS 332.075(1)(g) and OAR 581-021-0047:	ODE staff analysis of whether the agreement meets the requirements :
The public school at which the mascot is used is located within the traditional area of interest of the tribe that enters into the agreement.	Agreement meets the requirement

<p>At least 60 days prior to entering into an agreement under this subsection, a public school must notify the State Board of Education as to which tribe the public school is intending to enter into an agreement with regarding the use of a mascot. If the public school does not enter into an agreement with the tribe listed in the notice, the public school may not enter into an agreement with another tribe relating to the mascot for five years from the date of the notice to the State Board of Education.</p>	<p>Agreement meets the requirement</p> <p>Date of Notification to State Board of Education for the original agreement: March 10, 2017</p> <p>The school district provided notice to the State Board of its intent to enter into an agreement with the Siletz tribe on March 10, 2017. The parties entered into the agreement on March 31, 2017. This was only 21 days of notice. However, the school district had been working with the same tribe for the prior year and provided a public hearing opportunity to the public. Based on that, ODE staff recommended approval of the agreement because the district met the intent of the 60-day notice requirement.</p>
<p>A public school must conduct a public hearing relating to the agreement and give opportunity for members of the public to provide written and oral comments to the public school about the agreement. The public hearing must be conducted prior to the public school entering into the agreement.</p>	<p>Agreement meets the requirement</p> <p>The required hearing was held on March 30, 2017, prior to approval of the original agreement.</p>
<p>The agreement must be approved by the board of the public school and contain the signature of the board chairperson.</p>	<p>Agreement meets the requirement</p>
<p>The agreement must be approved by the tribal government of a Native American Tribe and contain the signature of the chairperson of the tribal council or other tribal leader designated by the tribe.</p>	<p>Agreement meets the requirement</p>
<p>The agreement must contain a declaration by the tribe that the mascot represents, is associated with or is significant to the tribe.</p>	<p>Agreement meets the requirement</p>

<p>The agreement must contain a description of the acceptable uses of the mascot that the public school is using. The description must include the name of the mascot and pictures depicting any image, logo or letterhead that is deemed as an acceptable use.</p>	<p>Agreement meets the requirement</p>
<p>The agreement must contain a description of how American Indian/Alaska Native history and culture will be included in the curriculum of the public school.</p>	<p>Agreement meets the requirement</p> <p>The original agreement provided that the Confederated Tribes of the Siletz Indians had developed, and the Rogue River School District would use, curriculum for grades 4 and 8. The renewal agreement states that the curriculum developed by the Confederated Tribes of the Siletz Indians now covers grades k-12.</p> <p>The renewal agreement contains a new provision stating that the Tribe and District will work together to establish an in-service for staff, teachers, and volunteers on CTSI history, culture and acceptable Mascot and Logo use, to be provided at least once per school year.</p> <p>The renewal agreement contains a new provision stating that the District will allow and support a Native Club for all students grades 6-12 that desire to participate.</p>
<p>The agreement must contain a description of how the agreement will be enforced both between the school and tribe and within the public school.</p>	<p>Agreement meets the requirement</p>

<p>The agreement must contain the time period of the agreement which may not exceed 10 years.</p>	<p>Agreement meets the requirement</p>
<p>The agreement must require a review of the agreement by the tribe and public school at least once every five years.</p>	<p>Agreement meets the requirement</p>
<p>The agreement must contain a description of how disputes and complaints relating to the agreement will be resolved.</p>	<p>Agreement meets the requirement</p>
<p>The agreement must contain the process for renewal of the agreement which must include approval by the public school governing body, tribal government and State Board of Education and be consistent with this subsection.</p>	<p>Agreement meets the requirement</p>
<p>A copy of school policies adopted in accordance with ORS 339.356 that address complaints based on harassment, intimidation or bullying and cyberbullying and a description of how the policies are distributed to parents and students who attend the public school.</p>	<p>Agreement meets the requirement</p> <p>ODE staff confirmed on January 15, 2024, that the required policies have been adopted and are available on the District’s website:</p> <ul style="list-style-type: none"> • Policy JCF Hazing, Harassment, Intimidation, Bullying, Menacing, Cyberbullying, Teen Dating Violence, or Domestic Violence – Student • Policy JCF:AR Hazing, Harassment, Intimidation, Bullying, Menacing, Cyberbullying, or Teen Dating Violence Reporting Procedures – Student
<p>A copy of school policies adopted in accordance with OAR 581-021-0045 that address complaints based on race, color, religion, sex, sexual orientation, national origin, marital status, age or disability and a description of how the policies are distributed to parents and students who attend the public school.</p>	<p>Agreement meets the requirement</p> <p>ODE staff confirmed on January 15, 2024, that the required policies have been adopted and are available on the District’s website:</p> <ul style="list-style-type: none"> • Policy AC Nondiscrimination • Policy AC:AR Discrimination Complaint Procedure

SECTION I

- **Board Overview**
 - Mission, Vision and Values
 - Board Policy and Procedures
 - Policy #100 - Board Policy and Procedures
 - Code of Ethics
 - Financial Gain
 - Gifts
 - Conflict of Interest
 - Bribery
 - Official Misconduct
 - Economic Interest Form

Overview

The Mission, Vision, and Values of the State Board of Education are developed and regularly reviewed by the Board itself. They are shared with individuals preparing items to come before the Board and are used to guide Board members in the decisions that they make.

Mission

The Oregon State Board of Education works on providing equitable policies and practices that lead to the educational and life success of every Oregon public school student.

Vision

An aspirational public education system that honors its increasingly diverse student body and affirms every student to reach their full potential in a rapidly shifting global environment.

Values

The Oregon State Board of Education dedicates itself to centering **diversity, equity, and inclusion** in the work, decisions, and actions that we take, in the service of every student in the state, their academic advancement and their lifelong success.

The Oregon State Board of Education dedicates itself to challenging the status quo and rendering an **innovative, creative, adaptable, and culturally responsive** curriculum that reflects the history and evolving demographics of our state's landscape. We value and commit to an equally dignified, holistic, and inclusive student experience.

The Oregon State Board of Education dedicates itself to sharing responsibility, aiming for every student's individual academic excellence, and providing life skills that allow students to develop **self-agency**. We value engaging historically excluded **community voices** and student experience. We value and distinguish the **sovereignty of tribal nations** and the responsibility to engage in consultation on key matters of policy.

The Oregon State Board of Education dedicates itself to conducting business with **integrity, transparency, and adaptability** as the basis for equitable student access and success in public education.

Board Policy and Procedures - POLICY #100

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

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

The Board shall regularly review its operational procedures, generally at its annual retreat. At a minimum, the Board's operational review shall include an annual work plan session¹.

Commented [CR1]: This language continues to be reviewed by the small team.

END POLICY #100 -----

Code of Ethics

Board members are public officials under state law. Public office is a public trust, and as one safeguard of that trust, the people require all public officials to adhere to the code of ethics set forth in ORS 244.040. Board members should not make private promises that are binding upon the duties of a Board member, because a Board member has no private word that can be binding on public duty (ORS 244.010 - ORS 2.44.020). Board members should familiarize themselves with Oregon's ethics laws; this policy highlights some key features but is not comprehensive. In the event of any conflict between this policy and Oregon ethics laws, the law supersedes the policy.

Financial Gain

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

A Board member may not solicit or receive, whether directly or indirectly, honoraria for themselves or for any member of their household with a value of \$50 or more if the honoraria is solicited or received in connection with the official duties of the Board member. Honoraria does not include a certificate, plaque, commemorative token or other item with a value of \$50 or less, or honoraria for services performed in relation to the private profession, occupation, avocation or expertise of the Board member. Any person that provides a Board member or household member of the Board member with an honorarium as allowed under ORS 244.042 with a value of \$15 shall notify the member in writing of the value of the item within ten days after the event for which the item was received (ORS 244.042, ORS 244.100).

No Board member may solicit or receive, either directly or indirectly, and no person shall offer or give to any Board member any pledge or promise of future employment, based

¹ 1997 State Board of Education Policy Manual, Code BK

on any understanding that such board member's vote, official action or judgment would be influenced by such a pledge or promise (ORS 244.040).

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

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

Gifts

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

No Board member, their relative, or household member shall solicit or receive, whether directly or indirectly, during any calendar year, any gift or gifts with an aggregate value in excess of \$50 from any single source who could reasonably be known to have a legislative or administrative interest in the Board member. "Legislative or administrative interest" means an economic interest, distinct from that of the general public in any matter subject to the decision or vote of the Board member acting in the Board member's capacity as a public official. (ORS 244.020, ORS 244.025).

Gifts do not mean:

- (a) Gifts from relatives or members of the Board member's household.
- (b) Unsolicited tokens of appreciation with a resale value of less than \$25.
- (c) Informational material, publications, or subscriptions related to the performance of the board member's public duties.
- (d) Admission/cost of food consumed by a Board member, or a member of the household when accompanying the Board member at a reception, meal, or meeting held by an organization when the Board member represents state government.
- (e) Reasonable expenses paid by any local, state, or federal government; a state or nationally recognized Native American tribe; a membership organization to which a public body pays membership dues; or a not-for-profit corporation for attendance at a convention, fact-finding mission or trip, or other meeting if the public official is scheduled to deliver a speech, make a presentation, participate on a panel or represent state government.

(f) Reasonable food, travel, or lodging expenses provided to a public official, or a relative/household member/staff member of the board member accompanying the board member when the board member is representing state government.

(g) Food or beverage consumed while the Board member is acting in an official capacity.

(h) Food or beverage consumed by a Board member at a reception where the food or beverage is provided as an incidental part of the reception and no cost is placed on the food or beverage.

(i) Entertainment provided to a Board member/relative/member of the household that is incidental to the main purpose of another event.

(j) Entertainment provided to a Board member/relative/member of the household where the Board member is acting in an official capacity while representing state government.

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

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

Conflicts of Interest

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

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

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

(b) Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class

consisting of an industry, occupation or other group, including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated, is a member or is engaged.

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

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

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

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

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

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

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

Bribery

A person commits the crime of bribe-giving if the person offers, confers or agrees to confer any pecuniary benefit upon a public servant with the intent to influence the public servant's vote, opinion, judgment, action, decision or exercise of discretion in an official capacity. (ORS 162.015). Bribe giving is a Class B felony, punishable with up to 10 years in jail and a \$250,000 fine (ORS 161.625, ORS 161.605).

A public servant commits the crime of bribe-receiving if the public servant: (a) solicits any pecuniary benefit with the intent that the vote, opinion, judgment, action, decision or

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

Official Misconduct

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

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

Economic Interest Form

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

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

END POLICY #8 -----

SECTION III

- [Overview](#)
- [Written Public Comment](#)
- [Direct Public Comment](#)

Commented [CR1]: This language may instead be incorporated into a different section.

Public Comment at Board Meetings

Overview

The State Board of Education values public input. The public comment process provides space for testimony on items before the Board, or issues that may need attention. It does not allow for an opportunity for dialogue between the speaker, Board, or Director nor does it replace existing complaints processes. It does allow the State Board of Education to actively listen to and reflect on public feedback. Any Board member may request that the Chair and/or ODE Director respond to public comment received. The Board has no supervisory authority and will not hear complaints concerning individual personnel. Complaints about individual ODE employees should be submitted to the Deputy Superintendent's office as a personnel matter.

The Board holds this public comment space with care for Oregon's students at the forefront of mind. The Board is here to provide an example to youth in both agreement and disagreement. The following should be understood:

- Clear and kind language - the Board expects language that centers and supports the needs of students.
- No place for bias or hate - the Board will not tolerate profanity or language that minimizes or causes harm to anyone else's identity. If such language occurs, the speaker will forfeit the remainder of their time, be removed from the meeting, and be provided an alternate space to observe.
- No place for violence or threats - the Board will take any threats or threatening language seriously and will follow-up with law enforcement as appropriate.

Written Public Comment

Members of the public are encouraged to submit written comments or testimony in advance to StateBoard.PublicEmail@ode.oregon.gov, or by mail to the State Board of Education, 255 Capitol Street NE, Salem, OR 97310.

- To comment on an item currently under consideration by the Board, clearly label the subject line as "Public comment:" followed by the agenda item referred to. Agenda items can be found on BoardBook.
- To raise an issue to the attention of the Board, clearly label the subject line as "Raise an issue to the Board."
- All written public comment will be made available to the members of the Board and the public, and will be posted to BoardBook.
- Please note that submitting written comments prior to the meeting allows the Board more time to review and consider.
- Written comments will be accepted until the evening before a regular meeting.

Direct Public Comment

In the public notice for each regular meeting, the Board will share the specific medium for public comment. Such opportunities will be by advanced registration only. Each public notice will

include registration information and specify whether public comment opportunities will be in-person and/or virtual.

- The Board encourages all speakers providing comments on an agenda item to review materials posted to BoardBook in advance of the meeting.
- Each person providing public comment will have a total of three minutes. Unused time cannot be transferred to other speakers. The Board requests that speakers providing virtual public comment share both their audio and video.
- The Board will try to hear as many as possible within the public comment period on the agenda. The Board will prioritize comments from students and current educators.
- Individuals unable to provide comments during the meeting will be invited to submit written comments afterwards.
- If an interpreter is required, please notify the Board Administrator at least 48 hours in advance.