



ODE Rules Advisory Committee

November 2, 2023

Welcome and Group Share

→ In the chat, please list your:

◆ Name;

◆ Pronouns;

◆ Organization; and

◆ *What is a lesson you have learned from your favorite teacher*

Agenda

9:00 am - 12:30 pm

- I. Introductions & Opening Remarks
- II. Rules-at-a-Glance
- III. Draft Rules
 - A. OSCIM Program & TAP Grant Rules
 - B. Virtual Charter School Enrollment, Appeals, and Facility Location Rule Revisions
 - C. Procedures Regarding Restraint & Seclusion
 - D. Federal Program Appeals Process
 - E. Alternative Transportation Reimbursement
 - F. Transportation Grant
- IV. Early Concept
 - A. SIA Technical Fixes
 - B. Early Literacy Permanent Rulemaking
- V. Open Space/Questions
- VI. Closing

RAC Core Principles

- Rulemaking driven by engagement and consultation
- Intentionally collaborating with diverse perspectives
- Coordinating engagement opportunities and looping back with partners
- Providing multiple avenues for feedback and response in meetings
- Clearly defining roles and responsibilities within the rulemaking process

RAC Working Agreements

- Assume best intent, attend to impact, and earn trust
- Engage tension and commit to dialogue
- Speak your truth and represent your perspectives
- Respect different communication styles and embrace underrepresented voices
- Practice confidentiality when sharing outside the RAC

Engagement Opportunities for Administrative Rules

Oregon Department of Education

Ensures rules comply with state law.

Staff technical advisory committee

Ensures rules align with program/grant purpose. Discuss how rules will impact affected communities.

State Board of Education

Ensures rules align and advance ODE Education Equity Stance. Provides staff with direction on administrative rules. Adopts administrative rules and sets educational policy and standards for all public school districts.

ODE Rules Advisory Committee

Ensures rules comprehensively address impact on affected communities. Address fiscal, small business & racial equity impacts.

The General Public

Submits oral or written public testimony and/or comments at scheduled OAR Hearings and State Board meetings.



Process and Rhythm

RAC is Advisory to ODE Staff who make final recommendations to SBE for final decision.



Notification

Agenda will be sent out by RAC Coordinator

RAC Meetings

Discuss Draft Rule or Early Rule Concepts

State Board of Education

Staff will take Oregon Administrative Rules to State Board of Education

RAC Meetings

Staff may bring back draft rules to RAC

State Board of Education

Final adoption of rules or policies



ODE Rules-at-a-Glance

Special Education Evaluation & Eligibility Rule Revisions

Subject: Special Education Evaluation & Eligibility Rule Revisions

Concept: ODE updated all 13 of the special education evaluation and eligibility rules in Spring 2023 to align with the requirements of Senate Bills 13 (2019) and 16 (2019). After the updates were passed, ODE identified a group of minor language changes that were necessary for clarity or correction in order to ensure the rules were able to be implemented as intended.

Background:

These rules define the evaluation and eligibility process for special education services in compliance with the Individuals with Disabilities Education act.

Special Education Evaluation & Eligibility Rule Revisions: Proposed Rule Changes

Rule	Proposed Rule Changes
Definitions (OAR 581-015-2000)	<ul style="list-style-type: none"> Updating language to clarify that the definition of Developmental Delay is available <i>through</i> age 9. (prior language “For kindergarten to age 9...”)
Autism Spectrum Disorder (OAR 581-015-2130)	<ul style="list-style-type: none"> Updating language on the required documentation of medical examination to clarify that teams may require documentation of a medical exam for child age five <i>and above</i>. (prior language “above age five”)
Developmental Delay (OAR 581-015-2127)	<ul style="list-style-type: none"> Updating language to clarify that the category Developmental Delay is available <i>through</i> age 9. (prior language “For kindergarten to age 9...”)
Deaf or Hard of Hearing (OAR 581-015-2150)	<ul style="list-style-type: none"> Correcting language to clarify the eligibility criteria apply to <i>children</i>, not just infants or toddlers, who are being evaluated for early intervention, early childhood special education, or school age special education. (prior language: “To be eligible as an infant or toddler who is deaf or hard of hearing...”)
Specific Learning Disability (OAR 581-015-2170)	<ul style="list-style-type: none"> Correcting references to a hearing impairment and emotional disturbance to updated terms of <i>deaf or hard of hearing</i> and <i>emotional behavior disturbance</i>.
Traumatic Brain Injury (OAR 581-015-2175)	<ul style="list-style-type: none"> Adding a necessary period to the definition of traumatic brain injury. Correcting reference to communication disorder to the updated term <i>speech or language impairment</i>. Adding a space between Eligibility Determination: and the following text for clarity.

Special Education Evaluation & Eligibility Rule Revisions

Racial Equity:

- While the prior update to the overall rules was designed to increase racial equity in special education evaluations & eligibility, these minor language updates do not create additional equity opportunities.

Fiscal/Economic & Small Business Impact:

- There are no anticipated fiscal or small business impacts.

Next Steps:

- State Board Meeting in December 2023
- Updates to the Sample Eligibility Forms in 2024

581-011-0087 & 581-022-2350

Subject: Required Accessibility Conformance Report

Concept: Publishers of state-adopted and independently adopted instructional materials are required to provide a third-party, manually tested Accessibility Conformance Report outlining the program's compliance with Web Content Accessibility Guidelines.

Background:

- The instructional materials program evaluates and recommends instructional materials for use in Oregon K-12 public schools. Districts are able to select from the approved list or independently adopt materials.
- The current rules related to accessibility of instructional materials only adequately address print instructional materials.
- In order to address digital accessibility standards, a rule revision must take place.

Digital, Electronic, Materials & Instructional Materials

Proposed Rule Changes: A revision of OAR 581-011-0087 would require all publishers submitting materials to ODE's evaluation to comply with the aforementioned requirement.

A revision of OAR 581-022-2350 would require an ACR for materials independently adopted by districts.

Proposed Rule Impacts:

- **Racial Equity:** This rule will not directly impact racial equity. However, it will increase access to high-quality instructional materials for student with disabilities which include students of all races.
- **Fiscal/Economic & Small Business Impact:**The only fiscal impact will be on publishers of instructional materials. However, due to the precedent set by Texas, many publishers should already have the reports on file to provide during evaluation. The agency and districts will not be financially impacted.

Next Steps:

- Acknowledge feedback and responses
- Take to the State Board of Education for a second-read and adoption in December



ODE Draft Rules



OSCIM Program & TAP Grant Rules

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OSCIM Program & TAP Grant Rule

Subject: Expanding the impact of OSCIM and TAP grants for school districts & ESDs

Concept: Increase state's matching funds for OSCIM grant to \$6 million minimum and \$12 million maximum. ESDs now eligible to apply to TAP grants and increase the statutory limit of these grants to \$40,000.

Background:

- Since 2016, TAP has awarded grants to school districts with a statutory limit of \$20,000 for the Facility Assessment grant and \$25,000 for the Long-Range Facility Planning, Seismic Assessment, and Environmental Hazard Assessment grants. Only school districts have been eligible to apply.
- Since 2016, OSCIM has been awarding matching grants to school districts that pass bonds with a \$4 million minimum and \$8 million maximum. Grant commitments are given to districts in advance to help incentivize voters to vote in favor of these bonds for capital improvement.

OSCIM Program & TAP Grant Rule

Timeline:

Nov 2, 2023:	Rules Advisory Committee – First Reading
Dec 7, 2023:	State Board of Education – First Reading
Jan 4, 2024:	Rules Advisory Committee – Second Reading/Rules-at-a-glance
Feb 15, 2024:	State Board of Education – Second Reading & Final Adoption

- Draft rule changes have already been to existing rule & provided to RAC
- Proposed changes approved by the Office of School Facilities' Advisory Group (Sept 2023)
- Rule changes should be adopted before the next round of grants are awarded:
 - TAP – March 2024
 - OSCIM – May 2024

OSCIM Program & TAP Grant Rule

Proposed Rule Changes

OAR 581-027-0005 – Add definitions for “Education Service District” and “Extended ADMw”. Revised definition for “Rapid Visual Screening” for greater clarity.

OAR 581-027-0010 – Change the percent of funds available for OSCIM grants based on the priority list to 66%.

OAR 581-027-0015 – Increase the state’s matching funds for OSCIM grants to a minimum of \$6 million and a maximum of \$12 million per grant. Change the percent of funds available for grants based on the priority list to 66%. Change the percentage of funds available for grants based on the order in which applications are received (first-in-time list) to 34%

OAR 581-027-0030 – Add Education Service Districts as eligible to apply for TAP grants and add preference points for each grant type that are specific to ESDs.

OAR 581-027-0050 – Provide clarity to application requirements based on our experience administering the Assessor Certification Training Program.

- Rule changes mirror statute or further elaborate on them, are required by state law and in alignment with current administrative rule.

Proposed Rule Impacts: OSCIM Program & TAP

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 priority giving grants to small districts with high poverty.*
- *ESDs that also serve students can now apply for all 4 TAP grants*

Fiscal/Economic & Small Business Impact:

- *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.*
- *No impact on small businesses*

OSCIM Program & TAP Grant Rule

Engagement:

Office of School Facilities Advisory Group met in September 2023 to discuss proposed changes. A few members made minor recommendations to ensure that the preference points selected for ESDs reflect highest need. The Advisory Group is composed of individuals from all over the state including district employees, school board members, representative from Coalition of Oregon School Administrators, architectural professionals supporting districts with capital improvement planning, and bond counsel.

OSCIM Program & TAP Grant Rule

Follow-up Actions: Consider Feedback? State Board? Further engagement?

- Districts and ESDs are all in favor of the grant increases
- Respond to questions by the RAC and move toward first reading with the State Board
- Rule changes should be adopted before the next round of grants are awarded:
 - TAP – March 2024
 - OSCIM – May 2024



Virtual Charter School Enrollment, Facility Location, and Charter School Contracts Rule Revisions

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Virtual Charter School Enrollment

Subject: Virtual Charter School Enrollment and Appeals Requirement Updates

Concept: Align rules with the new timelines and requirements from HB 3204

Background:

- Students who wish to enroll in a virtual public charter school must provide notice of their intent to their resident district.
- If the district has more than 3% of their student population already enrolled in virtual public charter schools not sponsored by the district, the district may have a policy to deny the student enrollment
- Districts that deny enrollment must calculate their percent regularly and provide specific information to the family.
- Families may appeal district denials to the State Board.
- ODE processes these appeals and issues final orders upholding or overturning district decisions.

Virtual Charter School Enrollment

- **OAR 581-026-0305 Virtual Public Charter School Enrollment**

(2) A parent must provide notice to the school district in which the parent resides that the parent intends to enroll a student in a virtual public charter school. Upon receiving the notice, a school district may choose to do nothing further until receiving notice the student is enrolled in the school or if more than three percent of the students who reside in the school district are enrolled in virtual public charter schools not sponsored by the district, the district must provide notice to the parent that the district:

- (a) Approves the student for enrollment in the virtual public charter school; or
- (b) Does not approve the student for enrollment in the virtual public charter school.

(3) A school district that does not approve a student for enrollment in a virtual public charter school must provide the parent and student the following:

(a) ~~and provide a~~ copy of this rule and OAR 581-026-0310, ~~to the student~~

(b) ~~and a~~ list of two or more other online options available to the student, and

(c) The percentage of students in the school district that attend virtual public charter schools that are not sponsored by the school district, based on the most recent calculation at the time the intent to enroll was received by the district.

(34) If a parent does not receive a notice of approval or disapproval from a school district under subsection (2) of this rule within 1410 days of sending the notice of intent to enroll to the district, the student shall be deemed approved for enrollment by the district.

Virtual Charter School Enrollment

● OAR 581-026-0305 Virtual Public Charter School Enrollment - CONTINUED

(67) A virtual public charter school shall send a list of students to each school district in which a student who is enrolled in the school resides. The list shall be sent monthly when the virtual school is in session.

(a) The first list of the school year must be sent on or before the fifteenth day of school for the virtual public charter school.

(b) Lists must minimally include the student identification number, address, grade and must be in a tabular data format compatible with widely used spreadsheet software, allowing for organized data presentation and manipulation through rows and columns.

(78) If a school district chooses to not approve a student for enrollment in a virtual public charter school under this section, the district must have a policy that at a minimum includes the following:

(a) The ~~annual, semiannual or other~~ dates that the school district used to calculate whether or not three percent or more of the students who reside within the district are enrolled in a virtual public charter school.

(b) The description of the data used by the school district to calculate the number of students who reside in the district and the number of students who are enrolled in virtual public charter schools. A school district is only required to use data that is reasonably available to the district including but not limited to:

(A) The number of students enrolled in the schools of the school district;

(B) The number of students enrolled in virtual and non-virtual public charter schools located in the school district;

(C) The number of students enrolled in virtual public charter schools not sponsored by the district;

Virtual Charter School Enrollment

- **OAR 581-026-0310 Virtual Public Charter School Enrollment Appeal Procedure**

(5) The Superintendent shall overturn the decision of the school district to not approve the enrollment of the student if the Superintendent determines that:

(a) The school in which the student intends to enroll is not a virtual public charter school.

(b) The resident school district does not have more than three percent of the resident students of the district enrolled in virtual public charter schools not sponsored by the district.

(c) The parent did not receive the notice of disapproval from the district within [4410](#) days of when the parent sent the district the notice of intent to enroll.

(6) The Superintendent may consider the following in deciding whether to uphold or overturn a decision of the school district to not approve the enrollment of a student:

(a) The health and safety of the student.

(b) The student's educational needs and interests.

(c) The availability of other online options to the student.

(d) Any other information that the Superintendent deems relevant to the decision.

(7) The Superintendent shall issue a final order within [3014](#) days of receiving the notice of appeal from the parent. The Superintendent shall send a copy of the final order to the parent, the school district and the virtual public charter school.

Facility Location Rule Revisions

Subject: Public Charter School Facility Location Requirement Updates

Concept: Update the terms used in the rule and simplify rule to reference SB 767

Background:

- Since 2015, public charter schools have been able to operate a “school or facility” in other district boundaries.
- This practice is most typical with virtual public charter schools, but more non-virtual charter schools have been opening additional facilities or proposing to open new schools in other districts.
- The previous law did not differentiate between virtual and non-virtual.
- The previous law only required notice to be provided to the other district.
- A non-sponsor district could file a complaint with ODE and funding for the charter school could be withheld until the charter school has provided notice.

Facility Location Rule Revisions

- **OAR 581-026-0600 Public Charter School Facility Location**

(1) As used in this rule:

(a) “Written notice” means written notice that is mailed, faxed, e-mailed or personally delivered by the party required to provide the written notice.

(b) “Primary physical address of the public charter school” means the physical location of the public charter school campus located within the boundaries of the sponsoring district or the district in which the public charter school originally applied under ORS 338.045.

(c) “School ~~or facility~~” means a physical location that is owned, leased, or otherwise used by the public charter school where students receive instruction or educational services. As used in this rule, “school ~~or facility~~” or “tutoring or testing facility” does not include the student’s home.

(2)(a) For public charter schools sponsored by a school district that establish schools or testing or tutoring facilities ~~and facilities~~ that are not located at the primary physical address of the charter school, the district shall retain all responsibility assigned to a sponsor by ORS Chapter 338 and OAR 581-026-0005 to 0515.

(b) Except as provided in subsection (2)(a) of this rule, if a public charter school is sponsored by the State Board of Education, the district in which the primary physical address of the public charter school is located shall retain the responsibilities assigned to a district by ORS 338.155 to 338.165 and described in a contract between the district and the public charter school.

(3) The public charter school must maintain student records, board records, employment records, and other school records at the primary physical address of the public charter school.

Facility Location Rule Revisions

- **OAR 581-026-0600 Public Charter School Facility Location - CONTINUED**

(4) The board of a school district that is not the sponsoring school district of the public charter school may file a complaint with the Superintendent of Public Instruction pursuant to [Ch. 163, OL 2023](#) ~~ORS 332.158(3)~~ against the public charter school if:

(a) The public charter school opens or operates a school or [tutoring or testing](#) facility within the boundaries of that district; and

(b) The public charter school did not [comply with the provisions of Ch. 163, OL 2023](#) ~~provide written notice to the district school board of use of the school or facility prior to the first day on which students will attend classes in the school or receive instruction at the facility; and~~

~~(c) The public charter school or facility was not already in operation on January 1, 2016.~~

(5) The complaint must be in writing and may be delivered by mail, fax or e-mail or by personally delivering a copy to the Superintendent of Public Instruction and must contain:

(a) The name of the school district making the complaint;

(b) The name and contact information of a member of the board or district staff person who will act as primary contact for the complaint;

(c) The name of the public charter school operating the school or tutoring or testing facility;

(d) The primary physical address of the public charter school operating the [school or tutoring or testing](#) facility;

(e) The physical address of the school or [tutoring or testing](#) facility being operated by the public charter school in the offended district; and

(f) A brief statement explaining the facts underlying the complaint.

Facility Location Rule Revisions

- **OAR 581-026-0600 Public Charter School Facility Location - CONTINUED**

(6) The school district board must provide written notice of the complaint by mail, fax, e-mail or personal delivery to the public charter school and the sponsoring district on the same date the complaint is provided to the superintendent.

(7) Upon receipt of the complaint the superintendent shall schedule a contested case hearing pursuant to ORS 183.413 to 183.470.

(8) Upon a finding that the public charter school has not [complied with the provisions of Ch. 163, OL 2023](#):

~~operated a school or facility in the school district without providing the board of the school district written notice:~~

~~(a) The superintendent shall withhold State School Fund moneys due to the public charter school under ORS 338.155.~~

~~(b) The superintendent shall withhold moneys until the written notice is provided by the public charter school to the district school board, and a copy of the written notice is provided to the public charter school's sponsoring district and the superintendent.~~

(a) The superintendent may withhold SSF moneys due to the public charter school under ORS 338.155.

(b) If the superintendent withholds moneys pursuant to paragraph (a) of this subsection, the superintendent shall withhold the moneys until the charter school governing body is in compliance or other date determined by the superintendent.

Charter School Contracts

Subject: Charter School Contracts Provided to ODE

Concept: Require public charter schools to provide a copy of their executed or amended charter to ODE

Background:

- Public charter schools are approved by a sponsor for a specific contract term between 3-ten years.
- The Oregon Department of Education is required to submit data to the US Department of Education annually that includes the start and end dates for each charter contract.
- Most public charter schools do not send charter contracts to ODE until staff make a formal request.

Charter School Contracts

- **OAR 581-026-0100 Development and Execution of a Charter**

[\(8\) A public charter school must submit a copy of the executed or amended charter to the Oregon Department of Education.](#)

[\(a\) Upon executing an initial charter the public charter school must also submit to the Oregon Department of Education evidence of the charter school's governing board state and federal nonprofit status.](#)

- **OAR 581-026-0400 Process to Renew Charter**

[\(11\) A public charter school must submit a copy of the renewed charter to the Oregon Department of Education.](#)

Virtual Charter School Enrollment, Facility Location, and Charter Contract Rule Revisions

Timeline:

- Standard process timeline
- February 2024 adoption

Rules Advisory Committee: Presentation	Nov 2
<i>File Notice of Rulemaking with Secretary of State for Monthly Bulletin*</i>	Nov 28
<i>Send out via GovDelivery*</i>	Dec 1
State Board of Education: 1 st Reading	Dec 7
Scheduled Proposed OAR Hearing	Dec 8
Rules Advisory Committee: Follow-up	Jan 4
<i>49-day Notice to Legislators*</i>	Dec 28
State Board of Education: 2 nd Read/Adoption	Feb 15
Rules filed with Secretary of State; Effective Date	Feb 2024

Proposed Rule Impacts: Virtual Charter School Enrollment, Facility Location, and Charter Contract Rule Revisions

Racial Equity:

- *Impacts from facility location will vary by community. This does safeguard a district from having a new charter school sponsored by a different district opening in their boundary without their permission.*
- *Families denied enrollment in virtual public charter schools will get information faster so students can continue education faster.*

Fiscal/Economic & Small Business Impact:

- *Requiring charter contracts to be submitted will reduce time and effort spent by staff making public records requests for the contracts.*
- *In most circumstances, non-virtual public charter schools will need written permission from a non-sponsor district to open a new school in their boundary.*

Virtual Charter School Enrollment, Facility Location, and Charter Contract Rule Revisions

Engagement:

- ODE conducted a rulemaking engagement session on **Tuesday, October 17, 2023**
 - 76 people registered, 39 people attended
 - Virtual public charter schools
 - Non-virtual public charter schools
 - School Districts
 - ESD
 - Education Partner Organization
 - Lobbyists
 - Advocates
- Send draft rules to interested parties on November 2, 2023
- Update based on RAC and feedback
- State Board and Rulemaking process
 - December 1st Reading, February Adoption

Virtual Charter School Enrollment, Facility Location, and Charter Contract Rule Revisions

Follow-up Actions:

- Send draft rules to listserv
- Complete rulemaking process and present to State Board
- Come back to RAC in January



DRAFT Rule 581-021-0556

Procedures Regarding Restraint and Seclusion Rule Revision

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DRAFT Rule Revision 581-021-0556

Subject: Procedures Regarding Restraint and Seclusion

Concept: [SB 1024](#) amends ORS [339.294](#) and OAR [581-021-0556](#). Under SB 1024, a public education program is obligated to preserve all records associated with an incident of restraint or seclusion, including photos, audio or video recordings. These records must be kept in their original format and should not be altered in any way. The public education program must review any preserved photos, audio or video recordings during the required debriefing meeting that must occur within two days of any incident involving restraint or seclusion. Upon request from a student's parent or guardian, the public education program must disclose the preserved records.

Background: Individual Incident Reporting Requirements: There are existing requirements, as follows:

Verbal or electronic parent/guardian notification of the incident by the end of the school day when the incident occurred.

- Written documentation of the incident within 24 hours and immediate, written notification of the existence of a record (audio or video recording).
- Timely notification of a debriefing meeting to be held and of the parent's or guardian's right to attend.
- A debriefing meeting must be held within two school days of the incident. The debrief meeting must include all personnel of the public education program who were involved in the incident and any other appropriate personnel. Written meeting notes must be taken. A copy of the written meeting notes must be provided to the parent or guardian.

DRAFT Rule Revision 581-021-0556

Action Item	Timeline
Engagement on draft rule revision 581-021-0556	Start Date of Sept 14 - present
Rules Advisory Committee: Presentation	Nov 2 - Today
State Board of Education: 1 st Reading	Dec 7
Scheduled Proposed OAR Hearing	Dec 8
Rules Advisory Committee: Follow-up	Jan 4
State Board of Education: 2 nd Read/Adoption	Feb 15
Rules filed with Secretary of State; Effective Date	Feb 2024

DRAFT Rule 581-021-0556 Rule Text and Details

Procedures Regarding Restraint and Seclusion

- (1) Each entity that has jurisdiction over a public education program must establish procedures for the public education program to follow after an incident involving the use of restraint or seclusion.
- (2) Following an incident involving the use of restraint or seclusion, the following must be provided to a parent or guardian of the student:
 - (a) Verbal or electronic notification of the incident by the end of the school day when the incident occurred.
 - (b) Written documentation of the incident within 24 hours of the incident that provides:
 - (A) A description of the restraint or seclusion, including:
 - (i) The date of the restraint or seclusion;
 - (ii) The times when the restraint or seclusion began and ended; and
 - (iii) The location of the restraint or seclusion.
 - (B) A description of the student's activity that prompted the use of restraint or seclusion.
 - (C) The efforts used to de-escalate the situation and the alternatives to restraint or seclusion that were attempted.
 - (D) The names of the personnel of the public education program who administered the restraint or seclusion.
 - (E) A description of the training status of the personnel of the public education program who administered the restraint or seclusion, including any information that may need to be provided to the parent or guardian under subsection (3) of this rule.
 - (c) Timely notification of a debriefing meeting to be held and of the parent's or guardian's right to attend the meeting.
 - (d) Immediate, written notification of the existence of a record described in subsection (9) of this section. any records related to an incident of restraint or seclusion, including photos or audio or video recording.**
 - (e) For purposes of this subsection, "immediate" means to act as soon as possible without undue delay, but in no case later than within 24 hours of the incident.**

DRAFT Rule 581-021-0556 Rule Text and Details

Procedures Regarding Restraint and Seclusion

(3) If the personnel of the public education program who administered the restraint or seclusion had not received training from a program approved by the Department of Education, as required and in accordance with OAR 581-021-0563, the administrator of the public education program shall ensure that a parent or guardian of the student and the district superintendent or, if the public education program is a Youth Corrections Education Program provider under contract with the department, a Juvenile Detention Education Program provider under contract with the department, or a program that receives moneys pursuant to ORS 343.243, the person who oversees the administration of the program, receive written notification of:

- (a) The lack of training; and
- (b) The reason the restraint or seclusion was administered by a person without training.

(4) A debriefing meeting related to the use of restraint or seclusion must be held within two school days of the incident and **the parent or guardian of the student must be invited to attend. The meeting** must include all personnel of the public education program who were involved in the incident, and any other appropriate personnel. Written notes must be taken of the debriefing meeting, and a copy of the written notes must be provided to a parent or guardian of the student.

(5) If a student is involved in five incidents in a school year involving restraint or seclusion, a team consisting of personnel of the public education program and a parent or guardian of the student must be formed for the purposes of reviewing and revising the student's behavior plan and ensuring the provision of any necessary behavioral supports.

DRAFT Rule 581-021-0556 Rule Text and Details

Procedures Regarding Restraint and Seclusion

- (6) If serious bodily injury or death of a student occurs in relation to the use of restraint or seclusion,
- (a) **Oral notification of the incident must be provided immediately to a parent or guardian of the student and to the Department of Human Services; and**
 - (b) Written notification of the incident must be provided to the Department of Human Services within 24 hours of the incident.
- (7) If serious bodily injury or death of personnel of the public education program occurs in relation to the use of restraint or seclusion, written notification of the incident must be provided to the following individuals within 24 hours of the incident:
- (a) The district superintendent, **to the Superintendent of Public Instruction** and, if applicable, the union representative for the affected party; or
 - (b) If the public education program is a Youth Corrections Education Program provider under contract with the department, a Juvenile Detention Education Program provider under contract with the department, or a program that receives moneys pursuant to ORS 343.243, the person who oversees the administration of the program and, if applicable, the union representative for the affected party.
- (8) ~~Each~~ **A** public education program ~~must~~ **shall** maintain a record of each incident in which injuries or death occurs in relation to the use of restraint or seclusion.

DRAFT Rule 581-021-0556 Rule Text and Details

Procedures Regarding Restraint and Seclusion

(9)(a) A public education program shall preserve, and may not destroy, any records related to an incident of restraint or seclusion, including an audio or video recording. The records must be preserved in the original format and without any alteration.

(b) The public education program shall review any audio or video recording preserved under this subsection **in its original format and without any alteration** at the debriefing meeting **required to be held within two school days of the incident.** ~~described in subsection (4) of this section.~~ **The parent or guardian must be invited to the debriefing meeting at which the audio or video recording will be reviewed. The audio or video shall be reviewed in its entirety.**

(10)(a) At the request of a student's parent or guardian, a public education program shall disclose records preserved under this section to the parent or guardian. To the extent practicable without altering the meaning of the record, the public education program shall segregate or redact from a record disclosed under this paragraph any personally identifiable information of other students. If the public education program is unable to segregate or redact personally identifiable information of other students without altering the meaning of the record, the public education program shall disclose the record to the student's parent or guardian in its original format and without any alteration.

(b) If the department is investigating the incident of restraint or seclusion as suspected child abuse, at the request of the department, the public education program shall disclose to the department or the department's designee any records preserved under this section that are relevant to the department's investigation. The public education program shall disclose any record under this paragraph in its original format and without any alteration.

10 (c) For purposes of this subsection, "disclose" means to inform the student's parent or guardian that the record exists; that the record in its original format and without alteration will be available for review by the parent or guardian privately and in the debriefing meeting; and that a copy of the record will be provided to the student's parent or guardian upon request in its original and unaltered form except to the extent that a redaction is needed to protect the personally identifiable information of another student.

DRAFT Rule 581-021-0556 Rule Text and Details

Procedures Regarding Restraint and Seclusion

~~(9)~~**(11)** Pursuant to ORS 161.205 and 339.250, an individual who is a teacher, administrator, school employee or school volunteer may use reasonable physical force upon a student when and to the extent the application of force is consistent with ORS 339.285 to 339.303 and OAR 581-021-0553.

~~(10)~~ **(12)** District school boards shall adopt written policies to implement restraint and seclusion procedures consistent with and as indicated in ORS 339.285 to 339.308 and OARs 581-021-0550 to 581-021-0570, and shall inform teachers, administrators, school employees and school volunteers of those policies.

Proposed Rule Impacts: DRAFT Rule Revision 581-021-0556

Racial Equity:

- While this rule does not explicitly require inclusive practices, the Department requires approved training programs to prevent restraint and seclusion to include components that take into account different communication styles within various communities, such as implicit bias awareness, trauma-informed approaches, and inclusive language and communication.

Fiscal/Economic & Small Business Impact:

- There are no anticipated fiscal or small business impacts.

DRAFT Rule Revision 581-021-0556

Engagement:

Initial engagement sessions during the Fall of 2023

- All special education directors (in September and again in October)
- All superintendents and principals
- During COSA conference sessions - October 4th and 6th
- Link to give input on draft rule was also shared on Twitter
- Oregon Education Association
 - FACT Oregon and Central Oregon Disability Support Network
- Rule has changed substantially, due to engagement feedback
 - Individuals gave input and feedback on the first draft of the rule and a second version using [this survey](#).

DRAFT Rule Revision 581-021-0556

Feedback Received	
General Topics	Action on Feedback Received
<p>Timelines</p> <ul style="list-style-type: none"> ● Draft definition of “immediately” and recommendations to modify 	<ul style="list-style-type: none"> ● Adjusted draft rule to include recommendations ● Ensured that new ODE guidance and sample forms (Sept 2023) also addressed any issues raise.
<p>Records Disclosure (photos, audio, video)</p> <ul style="list-style-type: none"> ● Draft definition of “disclosure” and recommendations to modify 	<ul style="list-style-type: none"> ● Adjusted draft rule to include recommendations ● Ensured that new ODE guidance and sample forms (Sept 2023) also addressed any issues raise.
<p>Increased Clarity</p> <ul style="list-style-type: none"> ● It would be helpful to more clearly articulate that the parent has the right to attend the debriefing meeting. ● It should be more clear that at the debriefing meeting, the original record should be reviewed without alteration and in its entirety. 	<ul style="list-style-type: none"> ● Adjusted draft rule to include recommendations ● Ensured that new ODE guidance and sample forms (Sept 2023) also addressed any issues raise.

DRAFT Rule 581-021-0556

As this is a updated draft rule resulting from new legislation, ODE is grateful to be presenting to the Rules Advisory Committee. We plan to continue engagement and consider ongoing feedback during the rulemaking process.

Next Steps:

Plan to bring the rule before the the State Board for first read in December of 2023.



5 MINUTE BREAK



Proposed Federal Appeals Process

Liz Ross (she/her)

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Proposed Federal Appeals Process

Subject: Establishing an Appeals Process for Federal Title Programs

Concept: This proposed rule will enact a formal process, as well as provide clarity and transparency, should a grantee have a change in funding status, be required to pay back funds, or an applicant is denied an application to a federal grant program under the Every Student Succeeds Act, McKinney-Vento, Stronger Connections Grant, and/or the American Rescue Plan-Homeless Children and Youth programs.

Background:

- Federal programs are governed by rules and regulations outlined within the General Education Provisions Act (GEPA), the Education Department General Administrative Regulations (EDGAR), and Uniform Grant Guidance (UGG).
- GEPA requires that all state agencies have a process in place that give applicants and/or grant recipients a chance to appeal a decision, made by ODE, under certain circumstances.
- ODE is reviewing our policies and practices to ensure we are in alignment with federal and state guidelines and implement systems to strengthen how we implement and oversee federal programs.
- This rule is a technical fix to ensure alignment with federal grant management requirements.

Proposed Federal Appeals Process

Timeline:

- Engagements:
 - ODE conducted two listening sessions with federal program and migrant education regional coordinators, on Friday, October 13th and Monday, October 16th.
 - ODE plans to connect with OASBO, OAESD, OSBA, COSA, and Tribal organizations to set up engagement sessions throughout the next 1-2 months.
- Feedback:
 - 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.
 - ODE is seeking clarification from USDE regarding this timeline and what adjustments are possible.

Proposed Federal Appeals Process

Timeline:

Action Item	Deadline
Engagement on Proposed Rules	October 13 - 16th, 2023
Rules Advisory Committee: Presentation	November 2, 2023
Public Comment Hearing on Proposed OAR	December 8, 2023
State Board of Education: 1 st Reading	December 7, 2023
Rules Advisory Committee: Follow Up Presentation	January 4, 2024
State Board of Education: 2nd Reading	February 15, 2024
State Board Adoption	February 15, 2024

Proposed Federal Appeals Process: Proposed Rule

(1) The appeal procedures required by this rule apply to appeals of 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; and
- (k) American Rescue Plan-Homeless Children Youth Programs I and II.

Proposed Federal Appeals Process: Proposed Rule

- (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 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.

(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.

Proposed Federal Appeals Process: Proposed Rule

(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 title program. The Department shall deny any request for appeal that fails to:

- (a) State the nature of the Appellant's interest;
- (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 unless:

- (a) The impartial panel determines, after reviewing all appropriate submissions, that an evidentiary hearing is needed to resolve a material factual issue in dispute.
- (b) The impartial panel determines, after reviewing all appropriate submissions, that oral argument is needed to clarify the issues in the case.
- (c) At the party's request—if after consultation with the parties—the impartial panel determines that an evidentiary hearing or an oral argument is needed.
- (d) The procedures described in section (3) of this rule do not apply to the review conducted by the impartial panel under this section.

Proposed Federal Appeals Process: Proposed Rule

(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

Proposed Rule Impacts:

Racial Equity:

- Adoption of this rule may impact districts and grantees ability to carry out grant management efforts should an applicant choose to appeal a decision by ODE.
- In the event that ODE revokes funding or suspends participation in a program, ODE will work with district and/or ESD leaders to ensure services are provided in effective and efficient ways that are within the bounds of state and federal rules.

Fiscal/Economic & Small Business Impact:

- This rule change may have a financial impact on school districts or ESDs who chose to engage their legal council to engage in the appeals process.
- Small business would not be impacted by this rule adoption since they are not direct recipients of federal funds under these programs.

Proposed Federal Appeals Process

Follow-up Actions:

- ODE is seeking clarification on the 30 day provision and whether this timeline would restart in the event that the impartial panel determines a full hearing by OAH is required.
- ODE is seeking your input in the following:
 - Is the rule clear and transparent?
 - Are there aspects of the rule that need clarification?
 - Is there an element of the rule that causes concern?
- ODE is grateful to be presenting to the Rules Advisory Committee. We plan to continue engagement and consider ongoing feedback during the rulemaking process.



Alternative Transportation Reimbursement

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Brock Dittus (he/him)

Pupil Transportation Unit

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Alternative Transportation Reimbursement

Subject: Transportation Grant - State School Fund

Concept: Addition of Alternative Transportation as a reimbursable expense with an approved supplemental plan or waiver

Background:

- The Transportation Grant provides reimbursement of a percentage of the expenses to transport students (applies to trips between home and school and for other academic purposes).
- Expenses related to public transportation passes have historically only been reimbursable with a waiver or supplemental plan, but there is no defined process to request these.
- Expenses related to providing biking and walking bus options have not historically been reimbursable.

Alternative Transportation Reimbursement

Timeline:

- Any previous engagements?
 - Yes, September & October 2023
- What previous feedback have you heard?
 - Concerns about limitations in statute (inability to implement Alternative Transportation)
 - Concerns about this taking funding from the General Purpose Grant
- Where are you in the process of rulemaking?
 - Rules drafted
 - Plan to present to State Board of Education for first read in December 2023

Alternative Transportation Reimbursement

- **Proposed Rule Changes**

- Rule changes:
 - Adding definition of Alternative Transportation and Active Transportation
 - Adding process to request Alternative Transportation through a supplemental plan or waiver and process for reimbursement
- Are these rule changes mirroring statute?
 - Partially mirroring statute, partially clarifying how this addition will work operationally
- Does the RAC have any flexibility in proposing additional and/or different rule language?
 - Yes, we are open to feedback to ensure clarity and alignment with existing programs and structures.

Proposed Rule Impacts: Alternative Transportation Reimbursement

Racial Equity:

- *The addition of Alternative Transportation to the Transportation Grant provides flexibility to school communities around how they provide transportation services for their students. This flexibility may allow school districts to better support the needs of their students. Pupil transportation is a critical component of ensuring that students have equitable access to education by supporting daily attendance.*

Fiscal/Economic & Small Business Impact:

- *Are any state agencies, local governments, and/or members of the public likely to be economically affected by the rule change?*
 - School districts will have more flexibility around the types of expenses that are reimbursable under the Transportation Grant.
- *Is there a cost of compliance on small business? Ex: administrative costs, supplies/services costs, reporting/recordkeeping costs.*
 - No identified cost to small business

Alternative Transportation Reimbursement

Engagement:

- September 2023 engagement during Oregon Association of School Business Officials meeting
- October 2023 engagement during Chart of Accounts Committee meeting
- Email communications with school districts business officials
- Email communications with witnesses from the 2023 Legislative hearings on HB 3014

Alternative Transportation Reimbursement

Follow-up Actions: Consider Feedback? State Board? Further engagement?

-



Transportation Grant: Non-Reimbursable Mileage Rate Update

Vanessa Clark (she/they)

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Transportation Grant

Subject: Non-Reimbursable Mileage Rate Update

Concept: Non-reimbursable trips are deducted from reimbursable expenses on a per mile rate.

Background:

- The Transportation Grant provides reimbursement of a percentage of the expenses to transport students (applies to trips between home and school and for other academic purposes).
- School districts often also provide transportation for trips that are not reimbursable under the Transportation Grant (e.g., athletics, etc.).
- The non-reimbursable mileage rate allows school districts to use the same equipment and supplies to support these trips and then deduct these from their reimbursable expenses using a per mile rate.

Transportation Grant

Timeline:

- Any previous engagements?
 - No
- What previous feedback have you heard?
 - N/A
- Where are you in the process of rulemaking?
 - Rules drafted
 - Plan to present to the State Board of Education in December 2023 for first read

Transportation Grant

- **Proposed Rule Changes**

- Removing 2019-20 and 2020-21 non-reimbursable mileage rates
- Adding non-reimbursable mileage rates for 2023-24 and 2024-25

(iii) For **2023 – 24**:

(I) Number of miles at \$**3.18** per mile for all school buses and school activity vehicles having a manufacturers designed passenger capacity of greater than 20 persons including the driver, or

(II) Number of miles at \$**1.60** per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity of 20 or less including the driver.

(iv) For **2024 – 25**:

(I) Number of miles at \$**3.29** per mile for all school buses and school activity vehicles having a manufacturers designed passenger capacity of greater than 20 persons including the driver, or

(II) Number of miles at \$**1.65** per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity of 20 or less including the driver.

Proposed Rule Impacts: Transportation Grant

Racial Equity:

- *The non-reimbursable mileage rate aims to capture the costs of non-academic trips to deduct those expenses from the Transportation Grant. Doing this ensures that funds from the State School Fund are used to support students' academic needs, while also allowing school districts to use the same pupil transportation equipment for additional uses, such as athletic trips. While raising the rates due to inflation means higher deductions from the Transportation Grant, it keeps the grant focused on its purpose and increases equitable access to funding across the state.*

Fiscal/Economic & Small Business Impact:

- *This rule change maintains current practice in updating the mileage rate to account for inflation.*

Transportation Grant

Engagement:

-

Transportation Grant

Follow-up Actions: Consider Feedback? State Board? Further engagement?

-



Early Concept: HSS & SIA Technical Fixes

Blake Whitson & Rachael Moser

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HSS Technical Fixes

The following technical fixes to High School Success Fund Administration are needed:

- Adjustment of summer extension language to align with the SIA summer extension language
 - This was brought forward last year to add the universal extension to HSS but the language was not properly aligned to the SIA
- Addition of language on the reallocation of funds from a charter school that closed mid-year
 - This language is needed to support a process of how to reallocate funds in the event of a charter school closure. This addition is also being proposed for SIA for alignment across programs under integrated guidance.

SIA Technical Fixes & Rule Changes

The following technical fixes to Student Investment Account Fund Administration are needed:

- Addition of language on the reallocation of funds from a charter school that closed mid-year
 - This language is needed to support a process of how to reallocate funds in the event of a charter school closure. This addition is also being proposed for HSS for alignment across programs under integrated guidance.

The following changes are being considered for the SIA Definitions:

- Alignment of definitions for focal student groups
 - We continue to align Focal Group Definitions in the SIA Rule with the Student Success Plans. This supports the aim to ensure focal student groups are aligned with the spirit and intent of the Student Investment Account to increase academic achievement for students, including reducing academic disparities for students who have historically experienced them.



Early Concept: Early Literacy

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Early Literacy Rule Concepts

Early Literacy Rules

- State Board adopted temporary Fund Administration rules for the Early Literacy School District Success Grants
- ODE has convened an Early Literacy Advisory panel to provide input into the development of rules across the three initiatives within the Early Literacy Success Initiative, including:
 - Early Literacy Tribal Grants
 - Early Literacy Community Grants
 - Early Literacy School Success Grants
- Rules will be drafted on consultation with the Advisory and then brought before the Rules Advisory Committee for additional comment and feedback

Early Literacy Rule Concepts

Rule Input

- Any considerations and/or topics you'd like to see addressed in the three rules sets being developed?
 - Early Literacy Tribal Grants
 - Early Literacy Community Grants
 - Early Literacy School Success Grants

Preview of January 4, 2024 Agenda

- Rules-at-a-Glance:
 - PE Rule Changes
 - Teacher & Substitute Teacher Recruitment Grant Rules Repeal
 - Minimum Requirements for School District Sexual Harassment Rule Revision
 - School Emergency Preparedness Grant Rule
 - Charter School Rules
 - Procedures Regarding Restraint and Seclusion
 - Title 1C Federal Title Programs
 - Alternative Transportation
- Draft Rules:
 - District Grants & Early Literacy
 - Standards for Approval for Private Schools
 - SB 215 Bill Implementation
 - Examination of Children Instructed by Parent, Guardians, and Private Teachers

Thank you



The background of the slide is a dark space filled with numerous small white stars. On the right side, there is a large, detailed blue planet with visible atmospheric bands. On the left side, there are two smaller planets: a bright white one and a smaller yellow one.

OPEN SPACE

**Any further questions or comments
on any agenda item or any topic not
on our agenda...**