



# ODE Rules Advisory Committee

January 5, 2023

# Welcome and Group Share

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→ In the chat, please list your:

◆ Name;

◆ Pronouns;

◆ Organization; and

◆ *Looking back at 2022, what was one thing that made you proud?*

# Agenda

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9:00 am - 11:45 am

- I. Introductions & Opening Remarks
- II. Rules-at-a-Glance
- III. Draft Rules
  - A. Updates to OARs Involving Non-Conviction Court Orders
  - B. Special Education Evaluation & Eligibility OARs Update
  - C. Discrimination OARs Update
- IV. Open Space/Questions
- V. Closing

# RAC Core Principles

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- 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

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- 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.

## 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.

## 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.

# 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



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

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**Subject:** Farm to School Education Grant fund administration and usage

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

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

OAR technical fix was requested by stakeholders and partner organizations

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

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**Proposed Rule Changes:** Remove the following language from rule:

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

**Proposed Rule Impacts:**

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

**Next Steps:**

- First read at February State Board of Education Meeting

# OAR 581-022-2130: Community Informed Information Gathering Process At Kindergarten

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**Subject:** Current state rule is being revised to reflect a new approach to gathering information about student and family experiences as students transition to their public K-12 experience.

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

**Background:** The RAC reviewed a prior iteration of this OAR in September. Since that time, the rule has been adjusted to address concerns about the term "assessment" shared by the State Board of Education.

# OAR 581-022-2130: Community Informed Information Gathering Process At Kindergarten

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## Proposed Rule Changes

This recommended direction does not align with current OAR language for the “Kindergarten Assessment” requirement at OAR 581-022-2130. ODE is making policy change recommendations to align with the new approach and be open to other possible components that will inform state level decisions about Oregon’s early learning and care sector.

## Proposed Rule Impacts

- **Racial Equity:** The primary purpose will be to inform state-level decisions about Oregon’s early learning and care sector. The redesigned components will also meaningfully support families in building relationships with their kindergarten educators by inviting them to share about their family’s and child’s experiences before kindergarten. The redesigned “Early Learning Transition Check In” will center community and education partner voice and will be implemented in accordance with anti-racist assessment practices. The first component of the new process is a family interview, where kindergarten educators will sit with families and ask them important questions about their child’s experiences and the conditions that create the best learning environments for them.

# OAR 581-022-2130: Community Informed Information Gathering Process At Kindergarten

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## **Fiscal/Economic & Small Business Impact**

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

## **Next Steps**

- 2nd reading at State Board meeting in February 2023.

# Charter School Equity Grant Rule Revisions

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## **Subject:**

SSA Public Charter School Equity Grant Revision (ORS 327.362) OARs 581-017-0765 -0777

## **Concept:**

Current rules use the **most recent finalized Spring Membership data** to determine charter school grant eligibility. This excludes charter schools in their first year of operation due to Spring Membership data not being available until the next fall. **We propose to include Fall Membership data and December Special Education Child Count data for new charter schools in their first year of operation to include them in the eligibility determination.**

## **Background:**

This grant was established by HB 2166 during the 2021 regular session. Now in statute, it funds charter schools with student populations composed of 65% or more of students from racial or ethnic groups that have historically experienced academic disparities or students experiencing disabilities. Grant allocations are effectively equivalent to the difference between the ADMw the school generates and what is passed through by their sponsoring district according to their charter contract.

# Charter School Equity Grant Rule Revisions

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## Proposed Rule Changes:

- Adding Fall Membership and December Special Education Child Count data reports to determine eligibility for charter schools in their first year of operation who would otherwise be ineligible to apply in their first year.

## Proposed Rule Impacts:

- **Racial Equity:** Impacts students at charter schools meeting the 65% threshold of students historically experiencing academic disparities and students with disabilities with focused money to meet their needs in the critical first years of a new charter schools operation.
- **Fiscal/Economic & Small Business Impact:** None

## Next Steps:

- Positive feedback was received at the first RAC meeting; no comments or feedback received from first reading of the State Board of Education. Rule revisions will be presented to the State Board for a second reading and possible adoption at their January 19, 2023, meeting.

# OAR 581-014-0004 Fund Administration for Student Investment Account

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**Subject:** Fund Administration for Student Investment Account

**Concept:** To remove the opt out provision for the universal extension to expend allocated SIA funds by September 30th of each year

**Background:** The original SIA Fund Administration rules allowed districts to request a summer extension to expend funds by September 30 instead of June 30. Based on the number of requests we changed the rules to make the extension universal with an opt out. We are coming back now to remove the opt out provision. These rules have gone to the State Board for first reading.



# Updates to OARs Involving Non-Conviction Court Orders

## **Timeline:**

- This is our first rulemaking since learning of the exceptions to current rule.
- Feedback opportunities have been limited due to the holiday schedule.
- We have drafted rule updates, are currently presenting to RAC, and hope to present to the State Board of Education at their January and February meetings.

# OAR 581-014-0004 Fund Administration for Student Investment Account

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**Proposed Rule Changes:** Remove the opt out provision from OAR 581-014-0004, giving all grantees until September 30th to expend allocated funds.

**Proposed Rule Impacts:**

- **Racial Equity:** None
- **Fiscal/Economic & Small Business Impact:** None

**Next Steps:**

- This proposed rule was taken before the State Board on December 8, 2022 for first reading. No additional feedback or concerns were raised. This will go back to the State Board for a second reading and adoption on January 19, 2023.

# OAR 581-013-0015

## Fund Administration for High School Success

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**Subject:** HSS Fund Administration (Universal Summer Extension)

**Concept:** To reduce administrative burden we are seeking a rule change that would allow all High School Success/M98 recipients to have an universal summer extension without formally requesting annual extensions from ODE.

**Background:** For several years, over 99% of HSS/M98 recipients have requested a summer extension from ODE. This caused administrative burden on districts and on ODE grant teams who amend grant agreements. Participants in the RAC meeting noted that allowing more time in the summer to spend funds can help recipients given covid delays and summer school programs. Feedback was positive at the October and November RAC along with the first reading at the State Board in December.

# OAR 581-013-0015

## Fund Administration for High School Success

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**Proposed Rule Changes:** Grant Universal Summer Extension by removing this language:

“Notwithstanding subsection (a) of this rule, a school district or charter school may request an extension to spend funds apportioned during a given biennium during the first two months of the next biennium. A request must be made to the Department of Education. The Department of Education will approve the request if the spending aligns to the School District’s or charter school’s biennial plan”

**Proposed Rule Impacts:**

- **Racial Equity:** None
- **Fiscal/Economic & Small Business Impact:** None

**Next Steps:** 2nd reading at State Board meeting in January



# ODE Draft Rules



# Updates to OARs Involving Non-Conviction Court Orders

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Pupil Transportation & Fingerprinting Unit

# Updates to OARs Involving Non-Conviction Court Orders

**Subject:** Updates to OAR 581-053-0050, 581-021-0510, and 581-045-0584

**Concept:** To account for situations in which no conviction visible to ODE's fingerprinting team exists, but circumstances permit individuals ordered to use an ignition interlock device (IID) or required to register as a sex offender to qualify for driver approval or fingerprinting clearance to work with children in schools.

**Background:**

- ODE's Pupil Transportation & Fingerprinting Unit processes approvals and certificate applications for drivers, and fingerprinting based background checks for individuals with unsupervised access to children in school settings.
- Individuals with a conviction for driving under the influence of intoxicants are barred from eligibility for driver approval until they are three years free from custody, probation, and parole.
- Individuals convicted of most crimes of a sexual nature are barred from employment in a school under ORS 342.143 and may not be given unsupervised access to children in a school setting.

# Updates to OARs Involving Non-Conviction Court Orders

- **Proposed Rule Changes**

- OAR 581-053-0050

Driving & Criminal Records

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

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

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

...

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

- not mirroring new statutory language but we believe in line with intent of statute
- Open to suggestions if language is unclear or has unintended consequences



# Updates to OARs Involving Non-Conviction Court Orders

- **Proposed Rule Changes**

- OAR 581-021-0510  
Fingerprinting: Definitions  
(1)(a) “Conviction” means:

...

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

- not mirroring new statutory language but we believe in line with intent of statute
- Open to suggestions if language is unclear or has unintended consequences

# Updates to OARs Involving Non-Conviction Court Orders

- **Proposed Rule Changes**

- OAR 581-045-0584

Definitions

(1)(a) “Conviction” means:

...

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

- not mirroring new statutory language but we believe in line with intent of statute
- Open to suggestions if language is unclear or has unintended consequences

# Proposed Rule Impacts: Updates to OARs Involving Non-Conviction Court Orders

## Racial Equity:

- *While discussions of disparity have existed around background checks more broadly, no changes in racial equity impact are anticipated from this specific change.*

## Fiscal/Economic & Small Business Impact:

- *No significant impacts are anticipated for current government or the general public.*
- *Current regulations are already known and observed by contracting companies that serve school districts, and would present minimal change to their current practice.*

# Updates to OARs Involving Non-Conviction Court Orders

## **Engagement:**

- Opportunities for engagement were limited in the time between rule writing and this meeting.



# Special Education Evaluation & Eligibility OAR Updates

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# Background

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- In 2019, the Oregon legislature passed Senate Bills (SB) 13 & 16, which required updates to:
  - the names of eligibility categories, and
  - the requirements for medical/health examinations as well as audiological and visual assessments.
- Both SB 13 and SB 16 were designed to address barriers to special education eligibility and access.
- Updates to 13 different OARs are necessary to implement these legislative requirements.



# Senate Bills 13 & 16 (2019)

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- SB 13 mandated updates to the language included under the term “child with a disability.”
  - SB 13 updates were designed to increase access by creating more inclusive and accessible terms for the updated eligibility categories.
- SB 16 mandated updates to the requirements for statements from healthcare providers as part of the eligibility process.
  - SB 16 updates were designed to reduce barriers to eligibility by expanding the providers eligible to complete an examination as part of an eligibility process and to deemphasize the use of a specific form.

# Why are updates being requested now?

- During 2019 - 2020, ODE lead a community engagement process to guide rule development based on the legislative requirements and requested updates.
- This process targeted a limited array of stakeholders and resulted in a broad slate of recommended changes.
- In addition to the required changes, the updates incorporated existing Early Intervention (EI) and Early Childhood Special Education (ECSE) requirements into the existing school age eligibility and evaluation OARs.
- Based on this process, two OARs were completely revised in March 2020:
  - OAR 581-015-2150: Deaf or Hard of Hearing
  - OAR 581-015-2175: Traumatic Brain Injury
- Prior to making any further updates, additional engagement types were requested from ODE.



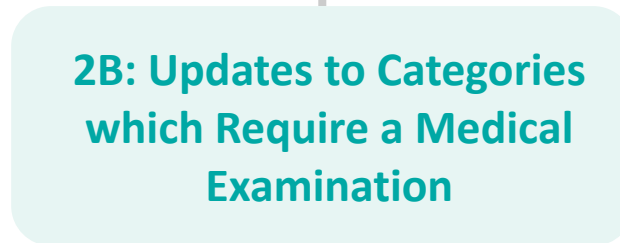
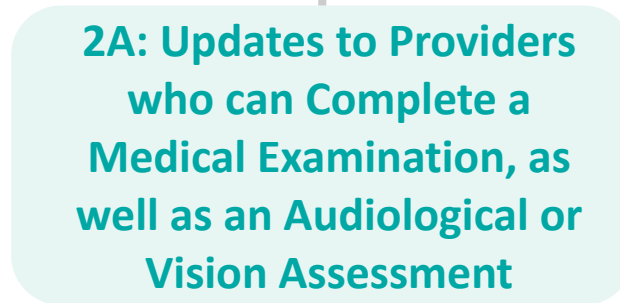
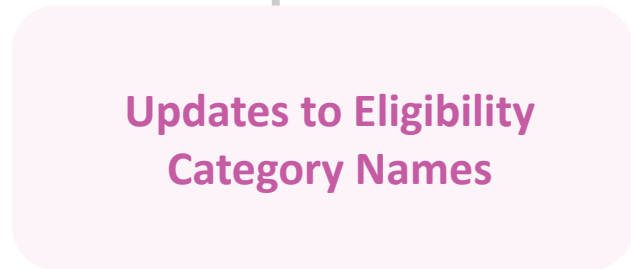


# Why are updates being requested now?

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- In Summer 2022, ODE determined it was necessary to complete the updates required by SBs 13 & 16 and resumed the OAR revision project.
- Guiding principles for the work were established, which included:
  - addressing the legislative requirements,
  - honoring the work already completed, and
  - ensuring that all voices had an opportunity to be heard.
- Based on these principles, ODE decided to move a streamlined series of changes forward to community engagement.
- **The updated language was designed to address both the legislative requirements as well as the integration of EI and ECSE standards into the current school age OARs while leaving the current eligibility and evaluation criteria the same.**

# Overview of Proposed Changes



# Overview of Proposed Changes: Color Coding/Bullet Formatting

**Green** = Proposing to add **new**  
language

**Yellow** = **Revising** existing language

**Red** = **Removing** language entirely

- to be completed  
✓ already in OAR

# Domain 1: Updates to Eligibility Category Titles

- to be completed
- ✓ already in OAR

## Language Updates Already in OAR:

- ✓ “deaf or hard of hearing” replaced “hearing impairment”;
- ✓ “deafblindness” replaced “deaf-blindness”;
- ✓ “orthopedic impairments”; and, “other health impairments” were called out as separate conditions; and,
- ✓ “autism spectrum disorder” replaced “autism”

## Language Updates to be Completed:

- “speech or language impairment” will replace “communication disorder”
- “emotional behavior disability” will replace “emotional disturbance”;

# Domain 2A: Updates from SB 16

- Updates the language from **medical/health assessment statement** to **medical examination**.
- Expands individuals who will be able to complete a medical examination to include:
  - A physician licensed under ORS chapter 677 **or by the appropriate authority in another state**;
  - A naturopathic physician licensed under ORS chapter 685 **or by the appropriate authority in another state**;
  - A nurse practitioner licensed under ORS 678.375 to 678.390 **or by the appropriate authority in another state**; or
  - A physician assistant licensed under ORS 677.505 to 677.525 **or by the appropriate authority in another state**.
- Adds a **vision assessment** given by a **licensed optometrist** or by a **physician who specializes in ophthalmology** to the options for eligibility assessment.
- Adds an **audiological assessment** given by a **licensed audiologist** to the options for eligibility assessment.

# Domain 2B: Updates to Required Medical Examinations

The current draft rule language also removes the the requirement for a medical examination for many eligibility categories, while retaining the option of requiring one if a team determines it is necessary.

The following six (6) categories will continue to require a medical or vision examination, and/or an audiological assessment as part of an initial or re-evaluation:

- Deafblindness
- Deaf or Hard of Hearing
- Orthopedic Impairment
- Other Health Impairment
- Traumatic Brain Injury\*
- Visual Impairment

5 categories may require an examination or assessment:

- Developmental Delay
- Autism Spectrum Disorder
- Communication Disorder
- Emotional Behavior Disability
- Specific Learning Disability

*\*Under specific circumstances, a guided credible history statement may be substituted for a medical examination for TBI*

## Domain 3: EI-ECSE Integration

- In Oregon, special education eligibility is divided into three age ranges:
  - Early Intervention (EI): birth to 3;
  - Early Childhood Special Education (ECSE): 3 to 5; and
  - School Age special education: 5 to 21.
- EI, ECSE, and School Age special education each operate under their own rules and requirements, however many are similar or overlapping.
  - EI offers more limited eligibility options than ECSE and school age, which offer identical eligibility options.
- Current OARs do not provide a single location to determine EI and ECSE eligibility information, which can create confusion for practitioners and families.

## Domain 3: EI-ECSE Integration

Early Intervention and Early Childhood Special Education (EI/ECSE) is included alongside school age special education in applicable eligibility categories to support:

- **Oregon's seamless system** for children and students who experience disabilities
- **IDEA Part B provisions** and requirements which apply to children and students with disabilities ages 3–21
- **The full continuum of eligibility** for each categorical disability
- **Coordinated kindergarten transition** practices for children moving from early childhood programs into school
- **2020 Oregon Secretary of State audit** recommendations to improve coordination and monitoring of kindergarten transition practices for children who experience disability



# Domain 3: EI/ECSE Integration in Relevant Evaluation & Eligibility Categories

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## EI, ECSE, & School Age

1. ◆ OAR 581-015-2127 (**Developmental Delay**);
2. ◆ OAR 581-015-2130 (**Autism Spectrum Disorder**);
3. ◆ OAR 581-015-2140 (**Deafblindness**);
4. ◆ OAR 581-015-2150 (**Deaf or Hard of Hearing**);
5. ◆ OAR 581-015-2160 (**Orthopedic Impairment**);
6. ◆ OAR 581-015-2165 (**Other Health Impairment**);
7. ◆ OAR 581-015-2175 (**Traumatic Brain Injury**);
8. ◆ OAR 581-015-2180 (**Visual Impairment**).

## ECSE & School Age Only

1. ✧ OAR 581-015-2135 (**Communication Disorder**);
2. ✧ OAR 581-015-2145 (**Emotional Disturbance**);
3. ✧ OAR 581-015-2155 (**Intellectual Disability**);
4. ✧ OAR 581-015-2170 (**Specific Learning Disability**);

# Requested OAR Updates

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Therefore, ODE is seeking to update the following administrative rules:

1. [OAR 581-015-2000 \(Definitions\)](#)
2. [OAR 581-015-2127 \(Developmental Delay\)](#)
3. [OAR 581-015-2130 \(Autism Spectrum Disorder\)](#)
4. [OAR 581-015-2135 \(Communication Disorder\)](#)
5. [OAR 581-015-2140 \(Deafblindness\)](#)
6. [OAR 581-015-2145 \(Emotional Disturbance\)](#)
7. [OAR 581-015-2150 \(Deaf or Hard of Hearing\)](#)
8. [OAR 581-015-2155 \(Intellectual Disability\)](#)
9. [OAR 581-015-2160 \(Orthopedic Impairment\)](#)
10. [OAR 581-015-2165 \(Other Health Impairment\)](#)
11. [OAR 581-015-2170 \(Specific Learning Disability\)](#)
12. [OAR 581-015-2175 \(Traumatic Brain Injury\)](#)
13. [OAR 581-015-2180 \(Visual Impairment\)](#)



# Community Engagement Process

# Discrimination OAR Updates: Proposed Changes

- **Technical Changes Throughout**
  - Explicitly add charter schools to the list of covered entities in discrimination rules
  - Add gender identity as a protected class where it was missing in rule, in alignment with HB 3041 (2021)
- **OAR 581-021-0045: Discrimination Prohibited**
  - Add definitions for disability and sex
  - Add “actual or perceived” to some definitions where it did not already exist
  - Add definitions under (1)(d) “National Origin” that point to the definitions of the Latino/a/x and Indigenous Student Success Plan Grant Program in OAR 581-017-0693
  - Add a requirement for schools to issue a Notice of Nondiscrimination that covers all Oregon protected classes (*see next slide*)

# Engagement Feedback on Required Updates

- Attendees were in favor of the updates to the names of categories, with particular appreciation for the update to emotional disturbance.
  - However, the update from Autism to Autism Spectrum Disorder was noted to be a move toward pathologizing and away from the community preferred term. Unfortunately, this nomenclature update is required by SB 13.
- Similarly, there was deep appreciation for the updates to the medical examination and addition of audiological and vision assessment options.
  - Repeatedly attendees shared how these statements acted as an unnecessary barrier to eligibility, particularly for the categories that will no longer mandate a medical examination as part of an initial or reevaluation.

# Engagement Feedback on Proposed Integration

- Attendees expressed an appreciation for the integration of EI and ECSE standards into school age conceptually and found it would be useful particularly for children transitioning between EI, ECSE, and school age services.
  - However, it was also noted by some that the drafts shared during community engagement were
    - difficult to consume,
    - the formatting included redundant language, and
    - the proposed language significantly increased the length and complexity of the OARs which decreased readability.
- Based on this feedback, we revised the draft OARs to decrease the length while increasing the readability of the rules.
- Given these updates, ODE is continuing engagement activities on this rule, including providing the updated language to all community engagement attendees.

# Other Engagement Feedback

- Additional considerations were also identified, including
  - confusion between the OAR language and the use of ODE standard eligibility form which will require updates;
  - the need for additional updates, beyond those included in the scope of the draft rules proposed today, including the need to increase the cultural responsiveness of the eligibility and evaluation process;
  - the need for student information systems to be updated to reflect the new OAR language; as well as,
  - the need for implementation supports such as guidance on eligibility and evaluation requirements and best practices.



# Updated Proposed OAR Language



# Proposed OAR Format

Each proposed OAR follows a similar format. That format includes:

- (1) Definition
- (2) Comprehensive Evaluation
- (3) Eligibility Criteria
- (4) Eligibility Determination





# Example OAR:

## OAR 581-015-2127 Developmental Delay

# Domain 3 Example of an Integrated Eligibility: Definition

**(1) Definition of Developmental Delay.** “Developmental Delay” means,

(a) For Early Intervention, 2 standard deviations or more below the mean in one or more of the developmental areas, or 1.5 standard deviations below the mean in two or more of the developmental areas;

(b) For Early Childhood and School Age Special Education, 1.5 standard deviations or more below the mean in two or more of the developmental areas; that

(A) For age 3 to kindergarten, adversely affects the child's developmental progress;

(B) For kindergarten to age 9, adversely affects the student's educational performance.

(c) For the purposes of this rule, the developmental areas are: (i) Cognitive development; (ii) Physical development; (iii) Communication development; (iv) Social or emotional development; and (v) Adaptive development.

# Domain 3 Example of an Integrated Eligibility: Comprehensive Evaluation

**(2) Comprehensive Evaluation:** If a child is suspected of having a developmental delay for Early Intervention, Early Childhood or School Age Special Education services must be conducted, the following evaluation must be conducted:

(a) For Early Intervention:

(A) At least one norm-referenced, standardized test addressing the infant or toddler's level of functioning in each of the developmental areas;

(B) At least one additional procedure to confirm the infant or toddler's level of functioning in each area of suspected delay listed in this rule;

(C) At least one 20-minute observation of the infant or toddler;

(D) All evaluations and assessments of an infant or toddler must be conducted in the native language of the child, unless it is clearly not feasible to do so.

(b) For Early Childhood and School Age Special Education:

(A) Developmental History as defined in OAR 581-015-2000;

(B) At least one norm referenced, standardized test in each area of suspected delay;

(C) At least one additional procedure to confirm the child's level of functioning in each area of suspected delay;

(D) Any additional assessments necessary to determine the impact of the suspected disability:

(i) On the child's educational performance for a school-age child; or

(ii) On the child's developmental progress for a preschool child;

(c) For Early Intervention, Early Childhood, and School Age Special education:

(A) A review of previous testing, medical data and parent reports; and

(B) Any other evaluative information as necessary to determine eligibility.

# Domain 3 Example of an Integrated Eligibility: Eligibility Criteria

**(3) Eligibility Criteria:** To be eligible for services as a child with a developmental delay,

(a) For Early Intervention, the infant or toddler must meet one of the following minimum criteria.

(A) 2 or more standard deviations below the mean in one or more of the developmental areas; Or

(B) 1.5 or more standard deviations below the mean in two or more of the developmental areas; OR

(C) Medical Examination as defined in OAR 581-015-2000. Documentation of a medical examination which includes a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

(b) For Early Childhood and School Age Special Education, the child must meet all of the following minimum criteria.

(A) 1.5 or more standard deviations below the mean in two or more of the developmental areas;

# Domain 3 Example of an Integrated Eligibility: Eligibility Determination

**(4) Eligibility Determination:** To be eligible for special education services as a child with a developmental delay for Early Intervention, Early Childhood or School Age Special Education services, the eligibility team must also determine that:

(A) The child has a developmental delay as defined in this rule; and

(B) The child is eligible for services in accordance with Early Intervention (OAR 581-015-2780), Early Childhood special education (OAR 581-015-2795), or School Age special education (OAR 581-015-2120).



# Breakout Groups to Provide Feedback

## Focus Group Question

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- What concerns do you have?
- What supports are needed to ensure these updates have the intended impact on reducing barriers to special education eligibility?





# Breakout Groups!





# Questions?

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We appreciate your time & consideration.

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# Discrimination OAR Updates

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# Discrimination OAR Updates

**Subject:** Updates to various discrimination OARS:

- OAR 581-021-0045, OAR 581-021-0046, OAR 581-022-2370, OAR 581-002-0001, OAR 581-002-0003

**Concept:** To clarify requirements around nondiscrimination, to better align state law with federal law, and to clarify rights for students, families, school staff, and community members.

**Background:**

- Oregon prohibits discrimination based on 10 protected classes
- All rules relate to nondiscrimination requirements and complaint procedures
  - OARs OAR 581-021-0045 and 581-021-0046 relate to prohibition of discrimination
  - OAR 581-022-2370 relates to district complaint policy requirements
  - OARs 581-002-0001 and 581-002-0003 relate to ODE's complaint and appeals process

# Discrimination OAR Updates

## Timeline:

- Informed by community requests and feedback:
  - Winter/Spring 2022 community feedback survey and engagement on the *2016 Guidance on Supporting Transgender Students*
  - Summer 2022 community engagement sessions on ODE complaints and appeals process
- Specific OAR proposal engagement
  - Open request for community engagement via email (Nov 17)
    - Directed email to ~40 community partners
    - Information spread through requests to Student Success Plan Advisory Groups
  - Two open community engagement sessions (Dec 2 and Dec 12)
  - Presentation to LGBTQ2SIA+ Student Success Advisory Group (Dec)
  - Presentation to Southern Oregon ESD GSA Advisor Affinity Group (Dec)

# Discrimination OAR Updates: Proposed Changes

- **Technical Changes Throughout**
  - Explicitly add charter schools to the list of covered entities in discrimination rules
  - Add gender identity as a protected class where it was missing in rule, in alignment with HB 3041 (2021)
- **OAR 581-021-0045: Discrimination Prohibited**
  - Add definitions for disability and sex
  - Add “actual or perceived” to some definitions where it did not already exist
  - Add definitions under (1)(d) “National Origin” that point to the definitions of the Latino/a/x and Indigenous Student Success Plan Grant Program in OAR 581-017-0693
  - Add a requirement for schools to issue a Notice of Nondiscrimination that covers all Oregon protected classes (*see next slide*)

# Discrimination OAR Updates: Proposed Changes

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

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

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

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

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

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

(E) Contain:

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

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

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

# Discrimination OAR Updates: Proposed Changes

- **OAR 581-021-0046: Program Compliance Standards**

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

- (a) Not discriminate against members of a protected class, including age, disability, national origin, race, color, marital status, religion, sex, sexual orientation, and gender identity;
- (b) Be gender-affirming, racially affirming, and culturally affirming;
- (c) Provide, on a case-by-case basis, for reasonable accommodation of an individual based on the health and safety needs of the individual; and
- (d) When revised, be revised with input from members of protected classes, including age, disability, national origin, race, color, marital status, religion, sex, sexual orientation, and gender identity.



# Discrimination OAR Updates: Proposed Changes

- **OAR 581-022-2370**
  - clarify that anyone who experiences discrimination can submit a complaint:  
(1) Each school district must establish a process for the prompt resolution of a complaint by a person who resides in the district or, by any parent or guardian of a student who attends school in the district, **by any person who alleges that they have been subjected to discrimination, or by a third party representing such persons.**
- **Throughout**
  - Clarify that sexual harassment under OAR 581-012-0038 (Sexual Harassment Policies) is a form of discrimination and that OAR 581-012-0038 is covered by ODE's discrimination appeals procedures throughout.

# Proposed Rule Impacts: Discrimination OAR Updates

## **Racial Equity:**

- These proposed changes will positively impact students of all protected class identities, including students of color (protected classes include race, color, national origin).
- The notice of nondiscrimination will inform students and families of their right to submit complaints and make information clear and easily accessible, including in languages of the community.
- The proposed dress code changes specify that dress codes must be racially-affirming and culturally-affirming. Districts will also be required to include protected class students in the process when updating dress codes.

## **Fiscal/Economic & Small Business Impact:**

- Possible financial impact for districts: translation related to notice of nondiscrimination

# Discussion: Discrimination OAR Updates

## Questions for RAC (Small Group Discussion)

- Additional feedback on proposed changes:
  - How will these changes impact:
    - students?
    - school policies and procedures?
    - school staff?
    - families and community members?
  - Are there any unintended consequences of these changes?
  - What alternatives should ODE consider?
- Do we need to seek additional community feedback before moving forward? If so, do you have suggestions about who we should reach out to?

# Discrimination OAR Updates

## Follow-up Actions:

- Present proposals to the [State Board of Education](#) for a first reading on January 19
- Seek additional community engagement and revise as needed
- Present to the State Board for a final reading

# Thank you



The background 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...**