

STATE BOARD OF EDUCATION – ADMINISTRATIVE RULE SUMMARY

Title/OAR # : Adoption— English Language Learners District and School Improvement/OAR # 581-020-0600 to 0615

Date: December 10 , 2015

Staff/Office: Cindy Hunt, Govt and Legal Affairs Manager

X New Rule **Amend Existing Rule** **Repeal Rule**

Hearing Date: _____ 11/23/15 _____ **Hearings Officer Report Attached**

Prompted by: **State law changes** **Federal law changes** **Other**

Action Requested:

First Reading/Second Reading Agenda **Adoption** **Adoption/Consent**

PROPOSED/AMENDED RULE SUMMARY: These new rules establish the English Language Learner District and School Improvement program as part of the implementation of HB 3499. The purpose of the program is to improve ELL student progress indicators including high school graduation rates and English language proficiency.

BACKGROUND:

In 2015, HB 3499 was passed, which focuses state resources and attention directly on improving outcomes for English Language Learners (ELLs). The reason for the increased attention on ELLs is due to the large and persistent achievement gaps that exist between ELLs and their grade level peers on academic assessments, high school graduation rates and other academic indicators. For example, in 2013-14, fifth grade math, science and reading performance for ELLs was the lowest of any of the subgroups the state typically monitors, including historically underserved racial/ethnic groups, economically disadvantaged students, and students with disabilities.

HB 3499 directs the Department of Education to identify two types of school districts: “Transformation districts” which will receive interventions and targeted assistance and “Targeted districts” which will receive only targeted assistance. Districts will be identified that have a history of not meeting objectives and needs of ELL students as compared to other districts. The Department is also directed to take into consideration the demographic information of the districts. The school districts will be identified for four years. At the end of the four years, for those districts that do not improve, the Department will direct the expenditure of monies received from the ELL weight in the State School Fund for up to three years.

HB 3499 also established a workgroup on ELL programs which was tasked with providing advice to the board relating to the school district improvement program. The State Board of Education is required to adopt rules based on the recommendations of an ELL program work group by January 1, 2016.

The rules provide authority to the Department to select districts as transformation and target districts using a variety of student progress indicators. Transformation districts will receive interventions and targeted assistance which may include grant funds while

targeted district will only receive targeted assistance. The rule draft has the following components:

- Minimum district eligibility criteria.
- The student progress indicators and demographic data that the Department will use to select the districts.
- Other factors the Department may use in selecting the districts. Examples of these include geographic diversity or data trends.
- A process for determining whether a district will be an ELL transformation or target district and which schools within a selected ELL transformation district will be part of the improvement work.

ISSUES/CONCERNS THAT SURFACED DURING RULE WORK:

The issues/concerns are captured in the charts of public comments attached.

CHANGED SINCE LAST BOARD MEETING?

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

No; same as last month

Yes – As follows:

The changes are captured in the charts of public comments attached.

FISCAL IMPACT: What is the fiscal impact of the proposed rule changes to the Department of Education, school districts or schools?

- The bill includes a \$12.5 million allocation to pay for the activities associated with HB 3499. It is anticipated that approximately \$6 million of this will be used for the ELL school district and school improvement program this biennium. School districts designated as improvement districts will receive grant funds to assist with the improvement work.

EFFECT OF YES VOTE: This will enable the work to continue to move forward on the current timeline outlined in the house bill. The bill directs that the rules for school district improvement must be adopted by January 1, 2016.

EFFECT OF NO VOTE: This could delay the timeline and deadlines required by HB 3499

STAFF RECOMMENDATION:

Adopt administrative rule as prepared this month

Adopt administrative rule in December.

No recommendation at this time (rarely used)

Comments:

Revised by CH on 12/2/15

English Language Learners District and School Improvement

581-020-0600 Definitions

The following definitions apply to OAR 581-020-0600 to 581-020-0615:

- (1) “Current ELL student” means a student who is enrolled as an English language learner program in Oregon during the school year.
- (2) “English language learner” or “ELL” means a student who has limited English language proficiency because English is not the native language of the student or the student comes from an environment where a language other than English has had a significant impact on the student’s level of English language proficiency.
- (3) “Former ELL student” means a student who was previously enrolled in an English language learner program in Oregon.
- (4) “Percentage of students in poverty” means the percentage of students in poverty using the number of students in poverty as calculated under OAR 581-023-0102. for purposes of calculation of the State School Fund distribution.
- (5) “School district” means a common or union high school district.

Stat. Auth.: Section 3, chapter 604, Oregon Laws 2015 (Enrolled House Bill 3499)
 Stats. Implemented: ORS 339.079 and Section 3, chapter 604, Oregon Laws 2015 (Enrolled House Bill 3499)

581-020-0603 Program

- (1) The Department of Education through the ELL District and School Improvement program shall:
 - (a) Improve ELL student progress indicators including high school graduation rates and English language proficiency.
 - (b) Identify school districts that are not meeting objectives and the needs of ELL students, taking into account the specific learning challenges and demographics of the students.
 - (c) Collaborate with selected districts to better meet objectives and the needs of ELL students.

(d) Partner with selected districts, to ensure that identified ELL transformation and target districts achieve expected growth in student progress indicators, and the expected benchmarks for student progress indicators that an identified district is expected to within four years of identification.

(e) In consultation with ELL transformation and target districts design and implement an accountability system of progressive interventions for the school districts.

(f) Direct school districts on how to expend moneys received under ORS 327.013(1)(c)(A)(ii) (ELL weight) for up to three years, for identified districts that have not met the expected growth in student progress indicators, and the expected benchmarks for student progress indicators. The direction on expenditure of moneys for school districts identified in 2016 will first apply to monies received by those school districts from the ELL weight on or after July 1, 2020.

(2) The Department of Education shall identify school districts that are:

(a) ELL transformation districts that are in need of progressive interventions and technical assistance; and

(b) ELL target districts that are in need of technical assistance.

(3) If a school district is identified as an ELL transformation or target district the district shall remain as such for four years.

Stat. Auth.: Section 3, chapter 604, Oregon Laws 2015 (Enrolled House Bill 3499)

Stats. Implemented: ORS 339.079 and Section 3, chapter 604, Oregon Laws 2015 (Enrolled House Bill 3499)

581- 020-0606 District Eligibility and Selection

(1) To be eligible for selection as an ELL transformation or target district, a district must have enrolled 20 or more English Language Learners on a date specified by the Department. School districts with less than 20 English Language Learners will be eligible for other regionally based services and supports provided by the Department.

(2) A public charter school is not eligible for selection as a ELL transformation or target district. However, a public charter school may be selected by the Department as a school within an identified ELL transformation or target district for interventions and technical assistance.

Stat. Auth.: Section 3, chapter 604, Oregon Laws 2015 (Enrolled House Bill 3499)

Stats. Implemented: ORS 339.079 and Section 3, chapter 604, Oregon Laws 2015 (Enrolled House Bill 3499)

581-020-0609 District Selection

- (1) The Department shall identify school districts that are not meeting objectives and needs of ELL students, taking into consideration the specific learning challenges and demographics of the students. The Department shall consider whether the district has demonstrated a history of not meeting objectives and needs of ELL students as compared to other districts relating to ELL students.
- (2) To identify school districts that are not meeting objectives and needs of ELL students, the Department shall consider the following student progress indicators in identifying the school districts in need of improvement:
 - (a) The cohort 5 year graduation rate for current and former ELL students;
 - (b) The academic growth of current and former ELL students in grades 6, 7 and 8 as measured by statewide standardized assessments;
 - (c) The academic growth of current ELL students in grades 1 through 8 as measured by the English Language Proficiency Assessment (ELPA);
 - (d) The academic growth of current ELL students in grades 10 through 12, combined; and
 - (e) Percentage of former ELL students who enroll in a post-secondary institutions after graduation from the district.
- (3) The Department shall also consider the needs of the district by considering learning challenges and demographic information of students enrolled in the district including but not limited to:
 - (a) The percentage of current and former ELL students as a percent of all students in the district;
 - (b) The percentage of all students in poverty as calculated using the district small area income and poverty estimate (SAIPE);
 - (c) The percentage of current and former ELL students who are economically disadvantaged;
 - (d) The percentage of current and former ELL students who are mobile;
 - (e) The percentage of current and former ELL students who are homeless;
 - (f) The percentage of current and former ELL students who are migrant students;
 - (g) The percentage of current and former ELL students who are recent arrivers to Oregon; and
 - (h) The number of unique home languages of current and former ELL students.
- (4) After identifying potential districts based on student progress indicators that are not meeting objectives and needs of ELL students, the Department may adjust the list of districts:
 - (a) To achieve geographic diversity of school districts;
 - (b) Based on the percentage of current ELL students identified as needing special education;
 - (c) Based on data trends identified by the Department related to a school district;

- (d) Based on programs for ELL students within the district which have been shown to either improve high school graduation rates or English language proficiency; and
- (e) Based on available funding.

(5) After identifying the districts that are not meeting objectives and needs of ELL students, the Department shall further identify the districts as:

- (a) ELL transformation districts; or
- (b) ELL target districts.

(6) The Department may use the demonstrated commitment level of a district's superintendent and board as a factor in determining whether the district is an ELL transformation or ELL target district.

(7) Data used by the Department to identify school districts may be from different school years but must be the best data available as identified by the Department.

Stat. Auth.: Section 3, chapter 604, Oregon Laws 2015 (Enrolled House Bill 3499)
Stats. Implemented: ORS 339.079 and Section 3, chapter 604, Oregon Laws 2015 (Enrolled House Bill 3499)

581-020-0612 ELL Transformation Districts

The Department, in consultation with an ELL transformation district, shall:

- (1) Select specific schools within the district for interventions and targeted assistance.
- (2) Identify the specific interventions and technical assistance to be provided to ELL transformation districts which may include grant funds.
- (3) Establish the expected growth in student progress indicators, and the expected benchmarks for student progress indicators, for English language learners of the district.
- (4) Shall design and implement an accountability system of progressive interventions for the school district which will be provided for four years after the district has been identified as a ELL transformation district.

Stat. Auth.: Section 3, chapter 604, Oregon Laws 2015 (Enrolled House Bill 3499)
Stats. Implemented: ORS 339.079 and Section 3, chapter 604, Oregon Laws 2015 (Enrolled House Bill 3499)

581-020-0615 ELL Target Districts

The Department shall identify the:

4.a

- (1) The technical assistance to be provided to ELL target districts.
- (2) Establish the expected growth in student progress indicators, and the expected benchmarks for student progress indicators, for English language learners of the district.

Stat. Auth.: Section 3, chapter 604, Oregon Laws 2015 (Enrolled House Bill 3499)

Stats. Implemented: ORS 339.079 and Section 3, chapter 604, Oregon Laws 2015 (Enrolled House Bill 3499)

Public Comments

CONCERN	RESOLUTION/PROGRESS
District Selection – required or opt in, avoid “penalty box” system	Rules direct ODE to select districts, consult with districts about schools, interventions, technical assistance and progressive interventions. Rules reflect collaborative, consultative relationship between ODE and selected districts. District commitment may be used to determine transformation or target district.
School selection	Rules reflect more flexibility relating to number of schools, schools selected in collaboration with districts
Ever ELLs, current ELLs & former ELLs	Rules use both current ELLs and former ELLs to determine district selection
Long-term ELL – use of data	Rules do not define or use long-term ELL’s as part of district selection process. This was done due to the concern about stigmatizing students and because studies varied relating to the impact on students of removing students from ELL status too early versus students who remain in long term status

Public Comments

CONCERN	RESOLUTION/PROGRESS
Use of average length of time as district selection criteria	Rules do not currently use, used other available data such as current, former and long-term ELL student data
Student movement	Rules use student mobility as district selection factor
Oversight Committee and stakeholder input	Rules do not create new committee. Workgroup continues until 1/2/17 in HB 3499. Workgroup voted to recommend to ODE to establish Oversight Committee. It will not be specific to HB 3499.
Very small district support	ODE presented proposal to workgroup for regional support model. Rules reflect that these districts will receive other supports.
Use of OAKS, SBAC, ELPA and ELPA 21	Rules direct use statewide standardized assessment and that data must be best available, Rules limit use of SBAC

Public Comments

CONCERN	RESOLUTION/PROGRESS
Percentage of students who attend college should be percentage of students who enroll in post-secondary systems or should not be used	Rules use percentage of students enrolled in post-secondary institutions
Labeling of districts Use of terms such as low-performing and outcomes as opposed to student progress indicators	Rules use "Transformation" and "Target" Rules use "not meeting objectives and needs of ELL students" language from HB 3499
All districts eligible for support including focus and priority	Rules no longer disqualify districts who are also in other state and federal improvement programs
Do not use school district size or geographic location	Based on workgroup advise, rules use geographic diversity as factor but have more flexibility relating to district size

Public Comments

CONCERN	RESOLUTION/PROGRESS
District accountability and .5 weight expenditure, clarify that expenditure direction is only for selected districts and after four years	<p>Rules currently mention .5 weight as consequence but do not provide details.</p> <p>This was not changed at this time because general workgroup agreement was that this is the right level of detail for now. Will have further workgroup discussions.</p> <p>Rules were changed to clarify that this only applies to selected districts in 2020</p>
How do we capture the needs of a district.	List of learning challenges demographic information was further defined to be based on data that is available and has high degree of accuracy
If statistical model is not used to select districts, department should use matrix	Matrix of student progress indicators and district needs will be used in district selection process
ODE should select districts as transformation or target	Rules specify that ODE places districts in categories. Although district leadership commitment may be a factor in selecting districts as transformation or target