

**STATE BOARD OF EDUCATION – ADMINISTRATIVE RULE SUMMARY****OAR # & Title:** First Reading: Essential Skills for English Language Learners/OAR 581-22-0617**Date:** January 21, 2016**Staff/Office:** Derek Brown & Cristen McLean / Office of Learning (Instruction, Standards, Assessment, and Accountability Unit); David Bautista & Martha Martinez / Office of Learning (Education Equity Unit) **New Rule**     **Amend Existing Rule**     **Repeal Rule****Hearing Date:** December 10, 2015     **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:**

Changes the criteria for demonstrating proficiency in reading and writing Essential Skills in the student's language of origin to allow students through end of high school to demonstrate English language skills. Changes the location for posting notifications of assessment options to the Essential Skills and Local Performance Assessment Manual. Removes requirement that assessment options are posted by March 1 of each year. Adds section exempting students seeking a diploma in 2015-2016 from the English proficiency criteria in order to be able to demonstrate proficiency in reading and writing Essential Skills in the student's language of origin; section will sunset as of August 31, 2016.

**BACKGROUND:**

OAR 581-22-0617, established in 2010, requires school districts to develop a policy about whether to allow English Language Learner (ELL) students to demonstrate proficiency in the Essential Skills in the students' language of origin. School districts that adopt a policy allowing ELL students to demonstrate proficiency in the students' language of origin must develop procedures to provide the assessments with language accommodations and to ensure that the locally scored assessment options administered in the ELL student's language of origin are scored by a qualified rater.

In order to demonstrate proficiency in the math Essential Skill in the students' language of origin, students must be on track to meet all other graduation requirements and be unable to demonstrate proficiency in English. In order for the student to demonstrate proficiency in the reading and writing Essential Skill (or in any Essential Skill other than math) in the students' language of origin, students must be on track to meet all other graduation requirements, be unable to demonstrate proficiency in English, and have demonstrated sufficient English language skills using an English language proficiency assessment option.

Currently, students who arrive in the U.S. during their senior year are not eligible to meet the criteria for demonstrating proficiency in their language of origin and thus are not eligible to receive this accommodation. ODE is submitting this revision to OAR 581-22-0617 to increase access to this accommodation by allowing students more time to fulfill the

eligibility criteria. Additionally, the Essential Skills and Local Performance Assessment Manual governs Essential Skills policies so the proposed revision to OAR 581-22-0617 to post approved assessment options in the Essential Skills and Local Performance Assessment Manual allows for Essential Skills policy information to be posted in one place. Finally, removing the requirement that assessment options are posted by March 1 of each year allows for the Oregon Department of Education to notify districts of assessment options as they are approved by the State Board and this can make the assessment options available for student use more quickly.

During the 2015-2016 school year Oregon's English Language Proficiency Assessment—the only assessment approved for students to use to fulfill the English proficiency criteria—is no longer operational and the replacement (ELPA21) will not have Essential Skill achievement standards set until late in summer 2016. In order to ensure that students who are pursuing graduation in the 2015-2016 school year are not negatively impacted during this transition, ODE is submitting a revision to OAR 581-22-0617. The revision removes the English proficiency requirement for students pursuing graduation in the 2015-2016 school year, thus allowing a student to demonstrate proficiency in reading and writing Essential Skills in the student's language of origin if the student meets the other criteria: (a) Is on track to meet all other graduation requirements; (b) Is unable to demonstrate proficiency in the Essential Skills in English and (c) Has been enrolled in a U.S. school for five years or less. This revision will sunset as of August 31, 2016, which is the last date a district may report 2015-16 graduates. If a student is pursuing graduation in the 2015-2016 school year and does not graduate, the student would no longer be exempt from the English language proficiency criteria.

**ISSUES/CONCERNS THAT SURFACED DURING RULE WORK:**

Issue: None identified

**CHANGED SINCE LAST BOARD MEETING?** (so members can focus on what's different)

- N/A; first read—hasn't been before board  
 No; same as last month  
 Yes – As follows:

Added section exempting students seeking a diploma in 2015-2016 from the English proficiency criteria in order to be able to demonstrate proficiency in reading and writing Essential Skills in the student's language of origin; section will sunset as of August 31, 2016.

**FISCAL IMPACT:** None

**STAFF RECOMMENDATION:**

- Adopt administrative rule as prepared this month  
 Adopt administrative rule next month  
 No recommendation at this time (rarely used)

Created by CM on 1/10/16

**OAR 581-22-0617**

### **Essential Skills for English Language Learners**

(1) Definitions. As used in this rule:

(a) “Assessment option” means an assessment approved to assess proficiency in the Essential Skills for the purpose of earning a high school diploma or a modified diploma.

(b) “English Language Learner” (ELL) means a student who meets the definition of “Limited English Proficient” found in Title IX, Part A, Section 9101.25 of the No Child Left Behind Act of 2001 (NCLB).

(c) “Essential Skills” means process skills that cross academic disciplines and are embedded in the content standards. The skills are not content specific and can be applied in a variety of courses, subjects, and settings.

(d) “Qualified Rater” means any individual who is:

(i) Trained to a high degree of proficiency in scoring the assessment administered to the student; and

(ii) Endorsed by the school district or public charter school, consistent with local school board policy, as proficient in the student’s language of origin for the purposes of accurately scoring the student’s work in the student’s language of origin.

(2) Consistent with OAR 581-022-0615, school districts and public charter schools must adopt a policy whether to allow ELL students to demonstrate proficiency in the Essential Skill of “Apply mathematics in a variety of settings” in the students’ language of origin for those ELL students who by the end of ~~their 11th grade year~~ high school:

(a) Are on track to meet all other graduation requirements; and

(b) Are unable to demonstrate proficiency in the Essential Skills in English.

(3) Consistent with OAR 581-022-0615, school districts and public charter schools must adopt a policy whether to allow ELL students to demonstrate proficiency in Essential Skills other than “Apply mathematics in a variety of settings” in the students’ language of origin for those ELL students who by the end of ~~their 11th grade year~~ high school:

(a) Meet the criteria in Section 2(a)-(b) of this rule;

(b) Have been enrolled in a U.S. school for five (5) years or less; and

## 5.c

(c) Have demonstrated sufficient English language skills using an English language proficiency assessment option that is approved by the State Board of Education. ODE will issue final notice of the State Board of Education's adoption of English language proficiency assessment ~~by March 1 of each year as an addendum to the Test Administration Manual~~ in the Essential Skills and Local Performance Assessment Manual.

(4) If a school district or public charter school adopts a policy allowing ELL students to demonstrate proficiency in the Essential skills in the students' language of origin under Sections 2 and 3 of this rule, that policy must include the following:

(a) Development of a procedure to provide assessment options as described in the ~~Test Administration Manual~~ Essential Skills and Local Performance Assessment Manual in the ELL students' language of origin for those ELL students who meet the criteria in Section 2(a)-(b) of this rule.

(b) Development of a procedure to ensure that locally scored assessment options administered in an ELL student's language of origin are scored by a qualified rater.

(5) For students seeking a diploma in 2015-2016, the criteria described in Section 3(c) does not apply. Section 5 will sunset as of August 31, 2016

Stat. Auth.: ORS 326.051 & 329.075

Stats. Implemented: ORS 329.045, 329.075 & 329.485

Hist.: ODE 5-2010, f. & cert. ef. 3-18-10