

**STATE BOARD OF EDUCATION – ADMINISTRATIVE RULE SUMMARY**

**Title/OAR # :** 7.b—First Reading: English Language Learners Outcomes/OAR # 581-020-0600 to 0615

**Date:** October 22, 2015

**Staff/Office:** Cindy Hunt, David Bautista; Brian Reeder

**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:**

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

**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 outcomes 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 schools districts: “Improvement 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 low performance as compared to other districts related to ELL students. 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.

The Department identified three different approaches for selecting the districts based on available data. The first approach ranks districts on raw outcome indicators such as graduation rates and assessment results. The second approach ranks districts on needs and considers factors such as percentage of students from economically disadvantaged families. The third approach ranks districts based on a regression using context, inputs and outputs. In this approach inputs include the demographics of the students in the district while outputs include indicators such as graduation rates and assessment results. The three approaches have their pro’s and con’s. Therefore the Department recommends using

a combined approach of the three which will give the Department a broad array of information on which to base the district selection.

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 improvement and target districts using a variety of indicators. Improvement 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.
- A requirement to select large, medium and small districts.
- The achievement 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 improvement or target district and which schools within a selected ELL improvement district will be part of the improvement work.

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

- If a school district is identified under another state or federal school improvement program should they also be identified under this program? The rule draft excludes school district and schools that are identified under other programs.
- How can we appropriately include schools/districts with very small ELL populations? Is there a minimum size? This is a strong issue with this topic because there are 44 school districts that have 20 or less students. Some members of the advisory committee expressed concerns about excluding these districts from the accountability system even if the district has less than 20 students. However, to include these very small schools raises issues of protection of student information and having statistically appropriate numbers of students. The Department is exploring methods of supporting these very small districts through other means.
- Should there be an emphasis on identifying schools at particular levels (e.g., elementary) or should we seek a balance of elementary, middle and high schools? The current draft rules seek to have a balance of different levels of schools.
- Should identification be at the school or district level? The current rules identify districts because some of the data used is not available at the school level. Additionally HB 3499 requires identification of districts.
- If at the district level, should we limit the number of schools included in the identification/technical assistance/monitoring in order to spread resources, TA,

monitoring across more districts? Although it is anticipated that 1 to 3 schools will be selected per district the rule draft does not address this.

- If identification is at the school level, should the feeder schools also be included in the Technical Assistance and monitoring over the four year period? The rule draft does not address this issue.
- Should the data used to select the districts be disaggregated by former, current or long term ELL students? The current draft uses former and current ELL student data. Long term ELL students data is more difficult to obtain at the present time.

**CHANGED SINCE LAST BOARD MEETING?**

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

No; same as last month

Yes - As follows:

**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

X Adopt administrative rule in December.

No recommendation at this time (rarely used)

Comments:

Revised by CH on 10/12/15

## **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) “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 outcomes including high school graduation rates and English language proficiency.
  - (b) Identify school districts that are not meeting objectives and the needs of students eligible for and enrolled in an English language learner program, taking into account the specific learning challenges and demographics of the students.
  - (c) Provide technical assistance and interventions to identified school districts.
  - (d) Ensure that identified ELL improvement 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 improvement and target districts design and implement an accountability system of progressive interventions for the school districts.
  - (f) Direct the school district 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.

- (2) The Department of Education shall identify school districts that are:
- (a) ELL Improvement Districts that are in need of interventions and targeted assistance; and
  - (b) Target Districts that are in need of targeted assistance.

(3) If a school district is identified as a ELL Improvement 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 a ELL Improvement or Targeted District:
- (a) The district must have enrolled 20 or more English Language Learners on a date specified by the Department;
  - (b) The district must not have been identified for district improvement in another state program; and
  - (c) The district must have at least one school which has not been identified for school improvement in another state or federal programs and which has enrolled 20 or more English Language Learners on a date specified by the Department.

(2) A public charter school is not eligible for selection as a ELL Improvement or target district. However, a public charter school may be selected by the Department as a school within an identified ELL Improvement 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 as districts in need of improvement if the district has demonstrated a history of low performance as compared to other districts relating to ELL students.
- (2) The Department shall identify school districts from each of the following categories:
- (a) Large Districts with 500 or more English Language Learners on a date specified by the Department.
  - (b) Medium Districts with at least 100 but less than 500 English Language Learners on a date specified by the Department.
  - (c) Small Districts with at least 20 but less than 100 English Language Learners on a date specified by the Department.

## 7.b

- (3) The Department shall consider the following data in identifying the school districts in need of improvement:
  - (a) The average 5 year graduation rate for current and former ELL students for two consecutive years;
  - (b) The growth in the percentage from year to year of current and former ELL students in grades 5 and 8 who meet or exceed benchmarks in reading and mathematics as measured by a statewide standardized assessment; and
  - (c) The growth in the percentage of kindergarten through Grade 5 ELL students who meet or exceed benchmarks on the English Language Proficiency Exam (ELPA).
  
- (4) The Department shall also consider how the district compares to other districts with similar characteristics by considering the following demographic information of students enrolled in the district schools in making this comparison:
  - (a) The percentage of students in the district that are identified as from historically underserved groups;
  - (b) Percentage of students in families who are economically disadvantaged; and
  - (c) Percentage of ever ELL students who attend college after graduation from the district.
  
- (5) To be considered for identification as in need of improvement a district must have been identified as being in the bottom 25 percent of all districts with 20 or more English Language Learners based on the data and demographic information described in this rule.
  
- (6) After identifying potential districts in need of improvement, the Department may adjust the list of districts:
  - (a) To achieve geographic diversity of school districts;
  - (b) Based on the percentage of ELL students identified as needing special education;
  - (c) Based on data trends identified by the Department related to a school district;
  - (d) Based on changes of leadership within the district or other promising district improvement efforts;
  - (e) 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
  - (f) Based on available funding.
  
- (7) The Department shall identify districts in need of improvement from each of the following categories:
  - (a) Large Districts with 500 or more English Language Learners on a date specified by the Department.
  - (b) Medium Districts with at least 100 but less than 500 English Language Learners on a date specified by the Department.
  - (c) Small Districts with at least 20 but less than 100 English Language Learners on a date specified by the Department.
  
- (8) After identifying the list of districts in need of improvement, the Department shall notify the identified districts and require the districts to submit an application to determine which districts will be ELL improvement districts and which will be targeted

districts and to determine which schools within the districts will be identified for improvement efforts. The department shall request information from the district to determine:

- (a) Whether a district will be a ELL improvement or target district;
- (b) Which schools within the district will be identified for improvement efforts based on a district needs and assets assessment for supporting ELL students; and
- (c) What the district's improvement plan will be if selected to be an ELL improvement or target district.

(9) (a) The Department shall consider the information received from the district under subsection (8) of this rule when identifying districts as ELL improvement or target districts and when identifying which schools in the district will be identified for improvement efforts.

(b) The Department shall attempt to achieve an identification of elementary, middle or high schools within identified improvement districts that is proportionately as equal as possible to the proportion of ELL students enrolled in elementary, middle and high schools statewide.

(10) 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 Improvement Districts**

(1) After a ELL Improvement District is identified, the Department shall select up to three schools within each large district, up to two schools within each medium district and one school within each small district for interventions and targeted assistance.

(2) The Department shall identify the specific interventions and targeted assistance to be provided to ELL Improvement districts which may include grant funds.

(3) The Department, in consultation with the ELL Improvement district, shall establish the expected growth in student progress indicators, and the expected benchmarks for student progress indicators, for English language learners of the district.

(4) The Department, in consultation with the ELL Improvement district, 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 Improvement 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 Target Districts**

- (1) The Department shall identify the targeted assistance to be provided to target districts.
- (2) The Department shall provide targeted assistance for four years after the school district has been identified as a target 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)