

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

**Title/OAR #:** 7.d—First Reading: Changes to Suspension of Students 5<sup>th</sup> Grade or Lower / OAR 581-021-0065

**Date:** 10/20/15

**Staff/Office:** John English-Student Services; Sarah Drinkwater-Student Services

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

**Hearing Date:** \_\_\_\_\_  **Hearings Officer Report Attached**

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

**Action Requested:**

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

**PROPOSED/AMENDED RULE SUMMARY:**

Revises OAR 581-021-0065 to reflect recent changes to state law regarding use of out-of-school suspension for students in fifth grade or lower.

**BACKGROUND:**

State and national data reveal an increased reliance on use of exclusionary discipline (i.e., out-of-school suspension and expulsion) under “zero tolerance” school discipline policies. In response, Oregon’s school discipline statute has been significantly revised in the last two years (HB 2912 in 2013 regular session; SB 553 & SB 556 in 2015 regular session). In general, the legislative changes represent a move away from punitive “zero tolerance” school discipline policies to those that focus on correcting behavior while striving to keep students in school. SB 553 adds to this general legislative scheme by creating more stringent requirements for the use of out-of-school suspension for students in fifth grade and younger. The proposed addition to 581-021-0065 inserts the statutory language into regulation.

Choices available to the board include:

- 1) opting not to promulgate an administrative regulation for SB 553, allowing the statute to speak for itself;
- 2) attempting to further define terms such as “serious harm” and “direct threat,” and prescribing with more detail steps that must be taken to return students to the classroom after suspension.
- 3) incorporating the statutory language verbatim into regulation.

**Recommendation:** Option 3. The statute does not explicitly direct ODE to engage in defining statutory terms such as “direct threat” or “serious harm.” Incorporating the statutory language verbatim into regulation will ensure consistency across the statutory/regulatory scheme.

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

Data on the use of out-of-school suspension for K-5 students in Oregon was shared and discussed during public testimony related to SB 553 in the 2015 legislative session. There is concern that exclusionary discipline leads to higher dropout and lower graduation rates in the long term. Additionally, disaggregation by race/ethnicity and disability status shows marked disproportionality for vulnerable student subgroups in Oregon.

**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:

**FISCAL IMPACT:**

This rule follows state statute as it relates to out-of-school suspension for students fifth grade and lower. Districts who have previously suspended students for minor offenses will be required to identify and implement alternatives. Districts will also need to update their local school discipline policies. It is foreseeable that districts will require technical assistance and training in these areas, but this is difficult to quantify at this juncture.

**EFFECT OF YES VOTE:**

Board approval would adopt the statutory language into rule verbatim ensuring that the OARs for suspension are aligned and current with statute.

**EFFECT OF NO VOTE:**

If the board decides not to approve the rule change, OARs would remain silent on the issue, requiring school districts to rely on the statute for guidance.

**STAFF RECOMMENDATION:**

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