



ODE Rules Advisory Committee

October 5, 2023

Welcome and Group Share

→ In the chat, please list your:

- ◆ Name;
- ◆ Pronouns;
- ◆ Organization; and

- ◆ *Favorite children's book?*

Agenda

9:00 am - 11:30 am

- I. Introductions & Opening Remarks
- II. Draft Rule: Consent Definition Rule Revision
- III. Rules-at-a-Glance
 - A. Farm-to-School Rule Repeal
 - B. EI/ECSE Authorization Rule Revisions
- IV. Draft Rules
 - A. PE Requirements & PE Reporting Data Rules Revision
 - B. Teacher & Substitute Teacher Retention & Recruitment Grant Rules Repeal
- V. Rules-at-a-Glance: Safe Schools Culture Grants Temporary Rules
- VI. Open Space/Questions
- VII. Closing

RAC Core Principles

- 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

- 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



Minimum Requirements for School District Sexual Harassment Policies Rule Revision

Kate Hildebrandt (she/her)

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OAR 581-021-0038

Minimum Requirements for School District Sexual Harassment Policies

Subject: Update to consent definition on [OAR 581-021-0038](#)

Concept: The definition of consent was updated to better align with the definition required to be taught in by Comprehensive Sex Ed rules and standards. The intention is to align what students learn in the classroom with the standard they are held to in policy.

Background:

- Oregon school districts are required to prohibit sexual harassment, and have a policy in place to address it.
- The current rule has an “implied” definition of consent that states that a person cannot consent in certain specific situations.
- This definition is out of step with comprehensive sex ed rules and standards, which requires students learn that consent is an enthusiastic yes and “the presence of a yes when no is a viable option.”
- This mismatch has the possibility to create confusion and harm students.

OAR 581-021-0038

Minimum Requirements for School District Sexual Harassment Policies

Timeline:

- HB 2280 was introduced at the request of ODE in the 2023 legislative session. Prior to proposing the legislative update, ODE:
 - Reviewed previous complaints involving sexual harassment and sexual assault, along with reports made to ODE specialists.
 - Consulted with state partners, including ODE and OHA experts, on the proposed update
 - Consulted with community sexual assault advocacy organizations to determine possible impact
- This bill was signed by the governor and went into effect on July 13, 2023.
 - The proposed rule update is to align the rules with the new language in statute.
 - No other language changes or updates are being proposed at this time.

OAR 581-021-0038

Minimum Requirements for School District Sexual Harassment Policies

(b)(A) “Sexual harassment” includes:

- (i) A demand or a request for sexual favors in exchange for benefits.
- (ii) Unwelcome conduct of a sexual nature that is physical, verbal, or nonverbal and that:
 - (I) Interferes with a student’s educational activity or program;
 - (II) Interferes with a school or district staff member’s ability to perform their job; or
 - (III) Creates an intimidating, offensive, or hostile environment.
- (iii) Assault, when sexual contact occurs without ~~a person’s~~ consent.

~~because the person is:~~

- ~~(I) Under the influence of drugs or alcohol;~~
- ~~(II) Unconscious; or~~
- ~~(III) Pressured through physical force, coercion or explicit or implied threats.~~

(c) “Without consent” means an act performed:

(A) Without the knowing, voluntary and clear agreement by all parties to participate in the specific act; or

(B) When a person who is a party to the act is:

- (i) Incapacitated by drugs or alcohol;**
- (ii) Unconscious; or**
- (iii) Pressured through physical force, coercion or explicit or implied threats to participate in the act.**

Proposed Rule Impacts: OAR 581-021-0038

Racial Equity:

- Sexual harassment and sexual violence disproportionately impact historically marginalized student populations, including students of color.
 - According to the 2016/2017 [National Intimate Partner and Sexual Violence Survey](#), 29% of Black women, 43.7% of American Indian or Alaskan Native women, and 48% of Multiracial women reported experience rape in their lifetime compared to 28% of White women.
- This bill will allow more students to have the option of seeking justice and support from their school district after sexual harassment.

Fiscal/Economic & Small Business Impact:

- Minimal additional costs are expected. School districts may have to devote additional staff time to responding to and investigating sexual harassment complaints, since slightly more incidents may now fall under the policy.

OAR 581-021-0038

Minimum Requirements for School District Sexual Harassment Policies

Engagement:

- Engagement session on 09/12/23 with Oregon Title IX Coordinators
- Engagement session scheduled for 10/26/23 with Comprehensive Sex Ed Advisory Group

Awareness and Technical Assistance:

- Updated definition shared with district admin and Title IX Coordinators during Fall 2023 civil rights trainings and Title IX trainings, August-October.
- During session, ODE received a request from a school district to provide guidance on investigating and assessing consent in alignment with this new definition.
 - Plan to provide webinars in alignment with upcoming Title IX changes, along with continuing to provide 1-on-1 technical support
- Received suggestion to make sure update is shared with school counselors; will connect with ODE school counseling staff to determine best venue for sharing update.

OAR 581-021-0038

Minimum Requirements for School District Sexual Harassment Policies

What other engagement, awareness, or technical assistance activities should ODE consider for this rule update?

Next Steps:

- Continue engagement, awareness, and technical assistance
- Present to State Board at next meeting (December 2023)

Contact: Kate Hildebrandt, katherine.hildebrandt@ode.oregon.gov



ODE Rules-at-a-Glance

Farm-to-School Rule Repeal

Subject: Farm to School Technical Assistance Grant

Concept: Transition of Technical Assistance Grant from competitive grant to Interagency Agreement

Background:

- Farm to School in Oregon is a robust state program. with various streams of funding; competitive and noncompetitive grants for sponsors of federal child nutrition programs to purchase of Oregon grown and/or processed food items, grants for nutrition education and school garden education, and funds for technical assistance and resources.
- Initially the decision was made to provide the technical assistance funds through a grant process.
- The last several years has shown that there are few entities that actually do this kind of work and the process required to receive the grant makes it unavailable to many of those entities, particularly smaller nonprofits.
- With stakeholder involvement the determination was made to transition the TA funds from a grant process to an interagency agreement.

Farm-to-School Rule Repeal

Proposed Rule Changes: Repeal of full rule

Proposed Rule Impacts:

- **Racial Equity:** We hope the change will allow for greater utilization of the technical assistance funds in providing help and resources to grantees across the state.
- **Fiscal/Economic & Small Business Impact:** The Technical Assistance grant process has been a difficult one to complete for some organization, particularly the time that it has taken and so many projects failed to be realized due to lack or delay in funding. This change will transition the funding to one partner organization through an interagency agreement and require them to create and make subgrants to community organizations. It is believed that this will contain less hurdles in speed and completion of funding.

Next Steps:

- **Acknowledge feedback and responses**
- Second read and adoption at October State Board meeting

EI/ECSE Rule Revisions

Subject: Adoption of the national Division of Early Childhood (DEC) EI/ECSE Standards and Council for Exceptional Children (CEC) Administrator Standards. Update minor language in EI/ECSE Personnel Standards and Authorization OARs to align with national standards.

Concept:

- Adopt DEC and CEC Standards
- Update the words “competencies” to “standards” and DEC and CEC standard area titles for Authorization OARs:
 - EI/ECSE Personnel Standards (OAR 581-015-2900)
 - Authorization of Early Childhood Specialist (OAR 581-015-2905)
 - Authorization of Early Childhood Supervisor (OAR 581-015-2910)

Background:

- Division for Early Childhood (DEC) created new EI/ECSE Personnel Standards (2020)
- Council for Exceptional Children created new Special Education Administrator Standards (2022)
- Goal to update Oregon standards every 5 years (ODE’s Comprehensive System of Personnel Development (CSPD) plan)
- Goal to update standards with an equity lens, focused on inclusion and cultural responsiveness
- Offered six feedback sessions with various partners and option of written survey response

EI/ECSE Rule Revisions

Proposed Rule Changes:

- Update the words “competencies” to “standards” and DEC and CEC standard area titles for Authorization OARs.

Proposed Rule Impacts:

- **Racial Equity:**
 - National DEC and CEC standards were created with a focus on equity, cultural responsiveness and inclusion.
 - Authorization supports recruitment and retention of diverse staff (across state) as an alternative to TSPC licensure.
- **No fiscal/economic or small business impact**

Next Steps: Acknowledge feedback and responses

- No longer requesting to revise “Supervisor” to “Administrator”



ODE Draft Rules



Physical Education Requirements & Report on PE Data Rules Revision

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581-022-2263 Physical Education Requirements & 581-022-2265 Report on PE Data

Subject: Physical Education Requirements; Report on PE Data

Concept: [OAR 581-022-2263](#) and [OAR 581-022-2265](#) need to be updated to reflect the current statute

Background:

- [HB 3199](#) amends ORS 329.496 Physical Education Requirement for grades 6-8
- HB 3199 amends ORS 329.496 Section 2 Report on PE Data
- Requires districts provide a consistent number of physical education minutes in grades K-8

581-022-2263 Physical Education Requirements & 581-022-2265 Report on PE Data

- OAR 581-022-2263 and OAR 581-022-2265 need to be updated to align with statute
- June 2023:
 - Districts were notified of revisions to the statute via Division 22 Standards Assurances communications
 - Updated information and guidance posted to ODE Division 22 Standards and Physical Education web pages.
- No other engagement necessary at this time.

581-022-2263 Physical Education Requirements

Proposed Rule Changes

- Removed phase-in requirements for the 2019-20 and 2021-22 school years
- Section (2)(a) and (b): Updated the number of minutes required for grades 6-8 and how they are calculated to mirror requirements in ORS 329.496, including proration for 4-day school weeks
- Section (2)(c) revised for clarity; included language from the statute to describe situations when districts can prorate weekly minutes
- Section (2)(d): Minor changes in language to improve clarity
- Removed section (3): districts not required to comply if State School Fund is underfunded - this is in statute
- Removed section (4); originally included during phase-in period to clarify that data collection was not tied to minutes requirements
- New: Directs districts to comply with all statutory requirements

581-022-2265 Report on PE Data

Proposed Rule Changes: Report on PE Data

- Updated the number of minutes required for grades 6-8 and how they are calculated to mirror requirements in ORS 329.496
- Incorporated definition for “number of minutes” into main text of the rule
- Replaced “The Department of Education shall collect” to “Districts shall submit” for clarity and to differentiate between this rule and the PE Requirements rule

Proposed Rule Impacts: 581-022-2263 Physical Education Requirements & 581-022-2265 Report on PE Data

Racial Equity:

- Historically marginalized and underserved students will receive the same opportunities to participate in physical education classes as their peers.
- Healthy students learn better, and physical activity has many health and academic benefits for children.
- Adoption of the rule will provide equitable time requirements for every student across the state to receive physical education.

Fiscal/Economic & Small Business Impact:

- No fiscal/economic or small business impact

581-022-2263 Physical Education Requirements & 581-022-2265 Report on PE Data

Follow-up Actions:

- December 7, 2023 - Presentation to the State Board of Education
- January 4, 2024 - Rules Advisory Committee Rules at a Glance
- February 15, 2024 - 2nd read for the State Board of Education



Teacher & Substitute Retention and Recruitment Grant Rule Repeal

Michael Elliott (He/him)

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HB 4030 Teacher and Substitute Grants

Subject: Repeal of OAR 581-017-0780 and -0790 because the grants covered by those rules expire January 1, 2024

Concept: HB 4030 grants expire and so the rules enforcing them are no longer needed.

Background: HB 4030, passed in 2022 provided funds to retain and recruit teachers and classified staff, and pay substitutes for annual required training. The grants were administered during the 2022-2023 school year. The grants have since closed and all funds have been distributed. The rules are no longer needed and so requesting State Board to repeal the rules.

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HB 4030 Teacher and Substitute Grants

Timeline:

- All grantees are aware that the grants have been closed. All funds that were able to be distributed have been distributed. We are making sure that the grants are wrapped up and removing rules that no longer apply. We would be going for first read in October at the State board and then second read in December/January

HB 4030 Teacher and Substitute Grants

- **The proposed rule change is to completely repeal all of OAR 581-0780 and 0790. These rules will no longer apply after January 1, 2024.**
- **This change matches HB 4030 because HB 4030 repeals the laws on the same day. There is no opportunity to change or add additional language.**

Proposed Rule Impacts: HB 4030 Teacher and Substitute Grants

Racial Equity:

- Repealing these two rules will not impact racial equity in the state because the grants are closed will no longer operate.

Fiscal/Economic & Small Business Impact:

- Repealing these rules will not have an impact on small businesses or ODE or other state agencies.

HB 4030 Teacher and Substitute Grants

Engagement:

- There has been no engagement as this is a ministerial action designed to eliminate inoperative rules.

HB 4030 Teacher and Substitute Grants

- **There should be no follow up actions and this will be submitted to the board.**



ODE Rules-at-a-Glance

Safe School Culture Grants: SB 283 (2023)

Subject: Adopts/amends rules to implement the new Safe School Culture Grant program within SB 283

Concept: The purpose of this grant program is to develop a network of instructors who are certified in nonviolent crisis intervention methods to ensure that, for every 50 students in a school district or an education service district, at least one staff person of the school district or education service district is certified in nonviolent crisis intervention methods. The purpose this rulemaking is to align requirement for trainers with current requirements for approved restraint and seclusion trainers and to adopt rules for the distribution of the grant to school districts and ESDs

Background: SB 283 establishes the Safe School Culture Grant, along with other programs to support the educator workforce. Specifically, this grant provides funding to train a cohort of certified instructors within school districts and ESDs through the CPI (Crisis Prevention Institute) or by another nationally recognized organization that provides training to certify individuals in nonviolent crisis intervention methods. The measure requires each certified instructor funded by this grant to train a minimum number of staff each year. Training is not completed until each of these individuals reaches certification status. Districts and ESDs that receive reimbursement from this grant must report to ODE about the number of staff trained by the certified instructors.

Safe School Culture Grants: SB 283 (2023)

Proposed Rule Changes: Adopts new rule to prescribe how the Department will distribute funds under the grant program to school districts and education service districts. The rules provide allocation and reimbursement methods. It defines students as “ADM” for purposes of funding levels. The goal is allow districts and ESDs to know how much funding is available up front to assist with their budgeting. Amends the approved training list to align with the requirements of the new grant program.

Proposed Rule Impacts:

- **Racial Equity:** There is a long-standing impact of racial bias incidents and disproportionate disciplinary actions on students of color, including students of color experiencing disabilities. This legislation will increase the number of school staff who are trained in nonviolent crisis intervention or “de-escalation” methods.
- **Fiscal/Economic & Small Business Impact:** This grant provides additional resources to school districts and ESDs to develop certified instructors in nonviolent crisis intervention. It provides a 3% administrative fee (\$150K per biennium) to ODE for expenses associated with facilitating grant.

Next Steps:

- SBE will consider the temporary rules at the October meeting. The SBE will consider adoption of permanent rules in Spring 2024, as the temporary are only effective for 180 days.

Preview of November 2, 2023 Agenda

- Rules-at-a-Glance:
 - Special Education Definitions Rule Revisions
 - Digital, Electronic, or Web-based Materials and Media Rule Revisions
- Draft Rules:
 - School Emergency Preparedness Grant New Rule
 - Civil Rights Coordinators New Rule
 - Virtual Public Charter School Student Enrollment Rules Revision
 - Procedures Regarding Restraint & Seclusion Rules Revision
- Early Concept:
 - Permanent Early Literacy Rules

The background of the slide is a dark space filled with numerous small white stars. On the left side, there are two bright circular objects: a larger white one and a smaller yellow one. On the right side, there is a large, detailed planet with blue and white horizontal bands, resembling Jupiter. The text is overlaid on this background.

OPEN SPACE

**Any further questions or comments
on any agenda item or any topic not
on our agenda...**

Thank you

