
Docket Item:

Approve new permanent rule OAR 715-012-0105, establishing course materials and course fees notification requirements.

- New Rule Temporary
 Amend Existing Rule Permanent
 Repeal Rule

Prompted by:

- State law changes
 Federal law changes
 Other

These changes go into effect on adoption.

Summary:

In the 2021 legislative session, the Legislative Assembly adopted House Bill 2919, a bill requiring public institutions to prominently display the estimated costs of all required course materials and directly related course fees for no less than 75% of courses, allowing institutions some flexibility to not advance notice materials in courses, predominately where the instructor has changed since the last time the course was offered, or where no instructor is currently assigned. This legislation is the result of a workgroup on the topic that was established by Representatives Jeff Reardon and Janeen Sollman (now Sen. Sollman).

The workgroup was not able to reach definitive agreement on the exact definition of materials to be required to be posted, and this question was shifted by the legislation to the Commission for rulemaking, requiring that HECC develop a list of incidental items not required to be reported by the institutions to students.

HECC convened a workgroup on this question. The workgroup met twice, with written communication occurring between and after the consultation sessions. The workgroup contained representatives of faculty, local bookstores, academic leadership, students, and institutional associations. Staff received assistance and expertise from Amy Hofer, the statewide open educational resource coordinator. The attached rule is the result of this workgroup process and additional consultations.

The proposed rule takes an expansive view of what constitutes course materials and course fees, allowing institutions to exclude from disclosure only items in the following categories:

1. Common consumable materials not specific to a program or course of study (such as notebooks or pens).
2. Any items covered by the payment of a noticed lab or directly related course fee (such as items covered by a fee in a science course that is directly billed to the student).
3. Any materials or directly related course fees required of students in a program previously noticed to students as a condition of participation in such program, provided that the course for which the materials will be utilized is not open to enrollment by non-program participants (such as scrubs in a nursing class, provided that the class is only open to students in the nursing program, and those students have been previously notified that they must have scrubs).
4. Any equipment, materials or fees generally utilized by students for basic participation at an institution, or that are required as a condition of attendance or participation at an institution. (such as a laptop computer or a COVID-19 compliant face covering).

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The result of these exclusions is that items that the course materials and fees definitions require that students be notified of a broad range of items that go beyond traditional textbooks, including but not limited to: custom course packs, digital materials, program specific consumables (such as art supplies), field trips, personal protective equipment, calculators, and classroom response devices. In short, the propose rule intends to provide a near complete accounting of costs that will be borne by students should they enroll in a specific course section.

Staff has received comment on these proposed rules, and the following section summarizes some of this comment and staff's response.

Legislative intent is to construe the meaning of course materials in a limited sense. Staff reviewed the written and oral record from the legislative session and determined that while some testimony did indicate this intent, other testimony contemplated the meaning of course materials to include supplies. At best, the legislative intent as available in legislative records is muddled by the statements of sponsoring legislators. In addition, the inclusion of course fees in the legislative requirements provides the Commission with sufficient latitude to require the disclosure of non-tangible items.

Staff received comment that the proposed rule conflicts with HB 2919 and expands the definition of what constitutes course materials. Staff finds that neither HB 2919 nor other uses of the term 'course materials' limit the Commission's ability to require institutions to notice materials other than textbooks or other items with International Standard Book Numbers (ISBNs).

The requirement that titles and ISBNs be listed applies only to "each book required for the course." Further, prior uses of the term 'course materials' in Oregon law is in legislation regarding programs and funding to develop material to replace traditional, often expensive textbooks. When viewed in this context, and considering the Legislative Assembly has not provided an affirmative definition for course materials, staff determined the Commission has the latitude within HB 2919 to require notice for items that are not textbooks. The legislation additionally requires notice be provided for 'directly related course fees,' which further provides that non-physical material has been considered by the legislature.

HECC is narrowly tasked by the legislature to develop a list of incidental course material items, meaning items of minor consequence. Staff finds that in addition to developing an incidental items exclusions list, which is accomplished in section 2 of the rule, the Commission is also required to "establish metrics to measure compliance with section 1 of this 2021 Act by public institutions." In pursuit of establishing metrics, staff determined that course materials and directly related course fees both must be terms of common understanding. The proposed rule defines 'directly related course fees,' and through the creation of an exclusions list, defines course materials for reporting purposes as any item not excluded.

The proposed rule undoubtedly requires institutions and bookstores to do more than they have before to notify students of all substantial costs that may be incurred as a result of course registration. However, this is weighed against the benefit to students of being able to select courses and plan for costs at the time of course registration, and not immediately before the start of an academic term.

Material:

Rules text.

Staff Recommendation:

Staff recommends approving the permanent rule as drafted.

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**CHAPTER 715 – Higher Education Coordinating Commission
DIVISION 12 – Administration of Statewide Initiatives**

NEW 715-012-0105 – Incidental Course Materials and Fees

- (1) The following definitions apply to this rule:
 - (a) “Directly related course fee” means a fee imposed by an institution upon a student as a condition of taking a specific course or program or a cost that must be incurred by students as a result of the inclusion of a requirement in the curriculum of a specific course or course section.
 - (b) “Estimated Costs” means the best cost estimate available to an institution of higher education at the time such information is aggregated by such institution, unless the institution displays or establishes a link to a website that displays the actual cost of course materials or directly related course fees at the time the website is accessed. Estimated costs shall be single dollar value except in the following instances where student choices may significantly impact actual costs. In such instances, estimated costs means a reasonable estimate of minimum costs or a cost range:
 - (A) Consumable supplies specific to a program or course of study, unless a specific item is required with no allowable substitutions
 - (B) Required experiences, such as but not limited to, field trips
 - (C) Personal protective equipment
 - (c) “Total number of for-credit courses” means the number of for-credit course sections in an academic year open for student registration for the next non-summer academic term or session, counted as course sections for the term they are conducted. For example, course sections open for registration in the spring of a preceding academic year for fall enrollment shall count for reporting purposes as course sections in the fall term.
- (2) The following are required course materials and directly related course fees for which estimated costs are not required to be reported to students under the requirements of Oregon Laws 2021, Chapter 162:
 - (a) Common consumable materials not specific to a program or course of study.
 - (b) Any items covered by the payment of a noticed lab or directly related course fee;
 - (c) Any materials or directly related course fees required of students in a program previously noticed to students as a condition of participation in such program, provided that the course for which the materials will be utilized is not open to enrollment by non-program participants; and
 - (d) Any equipment, materials or fees generally utilized by students for basic participation at an institution, or that are required as a condition of attendance or participation at an institution. A classroom response system device is not exempt from reporting under this subsection.
- (3) Each institution shall provide the Commission with sufficient information to calculate whether the institution has met the requirements of Section 1(1)(a) of Oregon Laws 2021, Chapter 162. The institution will provide additional information upon the Commission’s request.

Stat. Auth: Oregon Laws 2021, Chapter 162

Stat. Imp: Oregon Laws 2021, Chapter 162