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**Docket Item:**

Approve permanent rule amendment to OAR 715-013-040 relating to the Student Success and Completion Model (SSCM) pursuant to ORS 350.075(3)(f).

- New Rule                       Temporary  
 Amend Existing Rule         Permanent  
 Repeal Rule

Prompted by:

- State law changes  
 Federal law changes  
 Other – The discovery of an unintended consequence.

These changes go into effect upon adoption.

**Summary:**

This docket item provides information on the recommended rule revisions proposed for one of the two Oregon Administrative Rules that operationalize the SSCM. Specific changes relate to the stop loss mechanism within 715-013-0040 as well as a provision resulting from a change in state law. A public hearing was held to consider the changes. A redline version of the proposed changes is included in the appendix along with additional context.

**Docket Material:**

There are two Oregon Administrative Rules (OARs) related to the administration of the SSCM: 715-013-0025 and 715-013-0040. Rule 0025 provides an overview and the general layout of the calculations while rule 0040 provides additional detail, tables and underlying data points. A recently completed five-year review process led to rule changes that were adopted by the Commission on February 10, 2021.

One of the rule changes to 715-013-0040 included the ability to apply a stop loss mechanism to limit the annual change in any institution's PUSF allocation to the overall change in PUSF funding minus 2%. The stop loss mechanism was to be applied only in the case where the total PUSF funding from year to year declines. Assuming the level of PUSF funding for the 2021-23 biennium included in the Governor's Budget Request which was the same as in 2019-21, it was determined a stop loss would be applied only during FY2022, the first year of the 2021-23 biennium. This is represented as scenario A in table A below and is reflective of the current rule language.

**An Unintended Consequence**

During the 2021 regular legislative session, \$900M was appropriated for the PUSF for 2021-23. Under the current rule language, this meant a stop loss would no longer be applied. In so doing, an unintended consequence occurred in which for OIT a \$900M PUSF without a stop loss produced less funding in FY2022 than a flat-funded

PUSF with a stop loss. Somewhat counterintuitively, this means a large increase in PUSF funding actually leads to a reduction in the FY2022 distribution to OIT as demonstrated in scenario B in table A below.

**Table A: Projected Funding for FY2022**

	<b>Scenario A Current Rule</b>		<b>Scenario B No Rule Change</b>		<b>Scenario C Staff Recommended</b>	
<b>FY2021 Distributions</b>	<b>FY2022, Flat Funded PUSF with Stop Loss</b>	<b>Variance to FY2021</b>	<b>FY2022, \$900M PUSF without Stop Loss</b>	<b>Variance to FY2021</b>	<b>FY2022, \$900M PUSF with Hold Harmless</b>	<b>Variance to FY2021</b>
EOU	21,500,357	20,227,109 -5.9%	21,677,344	0.8%	21,656,987	0.7%
OIT	30,282,842	28,489,622 -5.9%	27,995,079	-7.6%	30,282,842	0.0%
OSU	141,233,996	130,363,104 -7.7%	140,399,852	-0.6%	140,102,366	-0.8%
PSU	103,273,398	101,286,523 -1.9%	109,861,784	6.4%	109,103,983	5.6%
SOU	23,559,133	24,097,811 2.3%	26,354,273	11.9%	26,032,774	10.5%
UO	78,668,321	76,981,197 -2.1%	83,460,832	6.1%	82,909,594	5.4%
WOU	28,300,231	28,634,855 1.2%	31,250,837	10.4%	30,911,456	9.2%
<b>Total</b>	<b>426,818,278</b>	<b>410,080,310 -3.9%</b>	<b>441,000,000</b>	<b>3.3%</b>	<b>441,000,000</b>	<b>3.3%</b>

To remediate this unintended consequence, the design of the formula mechanism can be altered. A hold harmless can be used instead of a stop loss as demonstrated in scenario C in table A above. This will ensure the FY2022 funding distribution for OIT is not harmed as a result of additional PUSF funding and allows the other institutions to experience the gains afforded by additional overall funding. The proposed rule amendment enacts that change in a revised section 9.

A notice of proposed rulemaking was filed on June 24, 2021 with the Oregon Secretary of State. A public hearing was held on July 16, 2021 allowing for stakeholder feedback. Two stakeholder representatives and two HECC staff participated in the hearing. One stakeholder provided comment. Written testimony was received from the Oregon Institute of Technology (OIT) and is posted among the materials for this meeting.

**Potential Outcome**

When considering the biennial funding by institution, the proposed rule amendment as outlined in scenario A in table B below, with a hold harmless applied during FY2022 only, shows OIT receiving \$283,430 (0.5%) less during the 2021-23 biennium compared to the 2019-21 biennium. If no corrective action is taken, meaning a stop loss or hold harmless is not applied at all, OIT will receive \$2,571,193 (4.3%) less during the 2021-23 biennium compared to the 2019-21 biennium as shown in scenario B in table B.

This means that with the increase in PUSF funding to \$900 million and the application of a hold harmless as recommended by staff, OIT will receive an additional \$2.2 million in funding during the 2021-23 biennium when compared to the amount generated under the existing rule language.

**Table B: Projected Biennial Funding for 2021-23**

	2019-21 Distribution	Scenario A Staff Recommended		Scenario B		Scenario C	
		Hold Harmless, FY22 Only	Change to 2019-21	No Corrective Action	Change to 2019-21	Hold Harmless in both years	Change to 2019-21
EOU	42,497,205	44,219,300	4.1%	44,239,476	4.1%	44,173,728	3.9%
OIT	59,704,007	59,420,577	-0.5%	57,132,814	-4.3%	60,565,684	1.4%
OSU	276,014,796	286,215,132	3.7%	286,530,309	3.8%	285,730,435	3.5%
PSU	202,985,970	223,456,658	10.1%	224,207,723	10.5%	223,192,738	10.0%
SOU	46,255,329	53,465,590	15.6%	53,784,231	16.3%	53,395,245	15.4%
UO	154,298,988	169,781,891	10.0%	170,328,229	10.4%	169,582,624	9.9%
WOU	55,142,294	63,440,854	15.0%	63,777,218	15.7%	63,359,546	14.9%
<b>Total</b>	<b>836,898,589</b>	<b>900,000,000</b>	<b>7.5%</b>	<b>900,000,000</b>	<b>7.5%</b>	<b>900,000,000</b>	<b>7.5%</b>

Scenario C in table B above shows what would likely happen if the hold harmless is applied in both years of the 2021-23 biennium. OIT’s distribution increases by \$861,677 or 1.4% as a result of the hold harmless being applied on an annual basis. If the hold harmless was applied biennium to biennium, no increase or decrease would occur. This scenario did not receive consensus support from the institutions and is not recommended by staff.

**COFA Students**

There is one other recommended revision resulting from a change in state law. SB 553 included \$1.1 million to support tuition equity (eligibility to pay in-state instead of out-of-state tuition) for eligible students who are citizens of the Republic of Marshall Islands, the Federated State of Micronesia, and the Republic of Palau who live in Oregon under the Compact of Free Association (COFA) and who are enrolled at EOU. The bill stipulates EOU cannot also receive funding for these students through the formula.

As a result, a newly added section 10 of the rule stipulates the formula calculation for EOU will exclude data pertaining to COFA students who are eligible for tuition equity.

**Staff Recommendation:**

Staff recommends approving the proposed permanent rule amendment as drafted.

**Appendix – Redline Version of Proposed Rule Amendment****715-013-0040****Public University Support Fund Distribution Factors**

- (1) Purpose - The purpose of this rule is to list the relative weights and values of factors to be used in the Student Success and Completion Model calculation as defined in OAR 715-013-0025. All terms are defined as they are in Section 1 of OAR 715-013-0025.
- (2) The following section contains calculations and information necessary to make mission support payments.
- a. Base Payment - Each university shall receive a base payment of \$2.9 million annually. In addition, any university with less than 4,000 resident FTE, based on a three-year rolling average, shall receive an economy of scale allocation of \$1,400 for every resident FTE, based on that same three-year rolling average. This economy of scale allocation for each university will be adjusted according to such university's size by multiplying its FTE by the size factor relevant to their institution as listed below;
    - i. 0–750 FTE 1.3513;
    - ii. 751–1,250 FTE 1.2784;
    - iii. 1,251–1,750 FTE 1.2062;
    - iv. 1,751–2,250 FTE 1.1347;
    - v. 2,251–2,750 FTE 1.0641;
    - vi. 2,751–3,250 FTE 1.0108;
    - vii. 3,251–3,750 FTE 1.0081;
    - viii. 3,751–4,000 FTE 1.0054
  - b. Regional Access - Each university, as well as Oregon State University's Cascades Campus, with less than 4,000 resident FTE, based on a three-year rolling average, shall receive \$1,000 for each such FTE, based on that same average. In addition, each university shall receive an additional \$1,200 for each FTE below 4,000 up to a maximum of \$2.2 million per university.
  - c. General Research Support - Each university shall receive funds for general research support. This shall be based on each university' three-year average of federal research expenditures as reported by the National Center for Education Statistics (NCES). Each university shall receive a proportional share of the available funds based on their relative averages as outlined above. Funding level for this section is set at \$5 million per year.
  - d. Public Service Support - Each university shall receive \$330 per resident FTE, based on a three-year rolling average, up to a cap of \$4.7 million per university.

(3) The relative cost weights for Student Credit Hours (SCH) completions shall be as follows:

**Table 1**

(4) The relative weighting for degree completions by resident students, by degree level, shall be as follows:

**Table 2**

(5) The Cost Weighting factors for degree completion are determined by Classification of Instructional Programs (CIP) code and degree level and shall be as follows:

**Table 3**

(6) The degree areas of particular interest to the state are the following CIPs and they shall be given the additional allocation points as indicated below.

**Table 4**

(7) The additional weights to Bachelor's degree completions by resident students who are members of one or more Targeted Student Populations shall be as follows:

**Table 5**

(8) Weights for Bachelor's Degrees awarded to transfer students shall be discounted as follows:

**Table 6**

- a. All transfer degrees awarded to community college transfers shall be awarded an additional bonus of 37.5%.

~~(9) The HECC shall have the authority to implement a stop loss/stop gain mechanism to limit the annual change in any institution's PUSF allocation to the overall change in the PUSF minus 2%. This stop loss/stop gain mechanism shall only apply in cases where the PUSF allocation declines.~~

~~(9) A hold harmless provision shall be implemented during FY2022 only, based upon the annual change in the PUSF allocation from FY2021 to FY2022, so that the allocation to any one institution will not decline. This provision will be implemented during the second quarterly distribution in FY2022 thereby affecting all quarterly distributions during FY2022 with the exception of the first quarterly distribution. A one-time adjustment, also known as a settle up, will be applied during the second quarterly distribution. The hold harmless calculation will account for funding appropriated outside the PUSF in state programs for the FY2021-23 biennium that had previously been funded within the PUSF.~~

~~(10) Notwithstanding any provision to the contrary, and for funding distributions which are based on student data that most recently includes the 2021-2022 academic year, 2022-2023 academic year, or 2023-2024 academic year, the calculation specifically for Eastern Oregon University will exclude data pertaining to students who legally entered the United States under the Compact of Free Association Treaty (COFA) and who meet the requirements of ORS 352.287. Any funding Eastern Oregon University would have received under the formula for COFA students will then be distributed to the other public universities.~~

Statutory Authority: ORS 350.075(6) & ORS 350.075(3)(f)

Statutes Implemented: ORS 350.075(3)(f)

**Contextual Data**

	<b>Estimated FY2022 SSCM Funding per FTE</b>	<b>FY2020 Estimated Net Tuition Collected per Resident FTE</b>	<b>Median Annual Earnings 5 Years After Graduation (Bachelor's Degree, 2019-20 Academic Year)</b>	<b>Average Debt Among Graduates (2019-20 Academic Year)</b>
EOU	15,924	12,824	48,235	20,000
OIT	12,396	5,551	67,419	22,595
OSU	9,028	8,495	53,445	22,286
PSU	8,097	9,491	46,865	21,500
SOU	11,777	8,828	36,676	21,000
UO	7,882	10,165	45,035	20,500
WOU	10,618	4,734	46,167	21,716
<b>Average</b>	<b>\$ 9,105</b>	<b>\$ 8,897</b>	<b>\$ 48,412</b>	<b>\$ 21,406</b>