
Docket Item: 4.0 - Tuition Review Process – Proposed Administrative Rule Language

Summary:

The Commission is expected to review and determine whether a public university's proposed annual increase of resident, undergraduate tuition and mandatory fees of greater than five percent is appropriate. The Oregon Department of Justice (DOJ) has recommended the development of an administrative rule to formalize the calculation of the increase and to guide the review process. This docket item summarizes the contents of a proposed rule to be filed with the Secretary of State with draft rule language included in the appendix.

Docket Material:

Under Oregon Revised Statutes (ORS) 352.102, the governing board of an Oregon public university may not increase the total of tuition and mandatory enrollment fees for resident, undergraduates by more than five percent annually unless the board first receives approval from the Commission or Legislative Assembly. Under ORS 350.075 (3)(h)(B), the Commission is expected to conduct these reviews and consider approval. The last request for an increase exceeding five percent was in 2019.

The Commission has previously established decision criteria to use in determining whether or not to approve an increase request. Also, HECC staff has endeavored to define how the increase is calculated to determine if a review is needed, how to define mandatory fees for inclusion in the calculation, and what process steps are necessary for a thorough review. To date, these have been internal procedures.

A past Oregon Department of Justice (DOJ) opinion recommended the development of an administrative rule to create a formula of calculation and to formalize the review process. For the sake of consistency over time and for transparency, it is the staff's intent to operationalize DOJ's recommendation.

With that in mind, staff have created proposed rule language. The rule has not yet been filed with the Oregon Secretary of State. After receiving the Commission's input on the proposal, staff will proceed with the formal rulemaking process, collaborate with key stakeholders, and conduct a public rule hearing.

Components of the Proposed Rule

The proposed rule language strives to explain how tuition and mandatory fees are defined, how the increase is calculated, what the process steps are for a Commission review, and what decision criteria

the Commission will use in its determination. More specifically, the proposed rule language seeks to address a number of issues that have arisen over time.

How is *tuition* defined for the purposes of the increase calculation?

Tuition is the base tuition amount per credit hour charged by the university for 45 credits in a given academic year for a resident, undergraduate student. The academic year in this instance includes fall, winter, and spring. This does not include differential tuition which can apply to students enrolled in certain academic programs (e.g. engineering, health, etc.) or college (e.g. honors college). By DOJ interpretation, HECC conducts a holistic review and does not look at academic programs or students individually.

How are *mandatory enrollment fees* defined for the purposes of the increase calculation?

Mandatory enrollment fees include those that apply to all undergraduate students who are enrolled in a degree program who are qualified to pay resident tuition as a necessary condition of enrolling in the university. This does not include course-specific fees (e.g. a materials fee for an art class) that are based upon the student's enrollment in a specific course not general enrollment in the university. Nor does it include fees for specific services (e.g. parking permits) that do not apply to all students or one-time, mandatory fees (e.g. matriculation fees) because non-recurring fees are excluded.

Also excluded are mandatory incidental enrollment fees. Although they apply to all enrolled students, mandatory incidental fees are those set by the student government association and are excluded from the calculation pursuant to ORS 352.105. These fees could result from a student referendum, may be one-time, or are formally requested by the student government annually. Also, mandatory incidental fees are those for which the student government specifies where the funds will be spent.

How does the increase calculation work?

The increase is a comparison of the current academic year's total of annual resident undergraduate tuition and mandatory enrollment fees to the proposed upcoming academic year's total of annual resident undergraduate tuition and mandatory enrollment fees as illustrated in Example 1. Any increase that exceeds five percent requires review.

The calculation occurs within four steps:

1. The base tuition per credit hour is multiplied by 45 hours to get the annual tuition total for a full-time, undergraduate, resident student. If the institution charges a supplemental tuition for the first credit, which is often called a step-in tuition, it is added on top of the base tuition for all three terms. Currently, only OSU does this.
2. The mandatory enrollment fees, expressed as a rate per term, are multiplied by three terms to get the annual mandatory enrollment fees total for a full-time, undergraduate, resident student.

3. The total annual tuition and total annual mandatory enrollment fees are added together to get the total, annual enrollment charges.
4. The difference between the proposed total of annual enrollment charges is then subtracted from the current total of annual enrollment charges. That difference is then divided by the current total of annual enrollment charges and expressed as a percent.

Example 1: Increase Calculation

	Current Academic Year (2020-21)	Proposed Academic Year (2021-22)
Tuition*	\$188.25/hour * 45 hours = \$8,471.25	\$193/hour * 45 hours = \$8,685
Bldg/Tech Fee	\$39/term * 3 terms = \$117	\$39/term * 3 terms = \$117
Health Fee	\$168/term * 3 terms = \$504	\$176/term * 3 terms = \$528
Student Union Fee	\$44/term * 3 terms = \$132	\$44/term * 3 terms = \$132
Total	\$9,224.25	\$9,462.00
Annual Increase	\$237.75 or 2.58%	

NOTES: The academic year includes fall, winter, and spring. This example does not include a step-in tuition. If the institution charges a supplemental tuition for the first credit, which is often called a step-in tuition, it is added on top of the base tuition for all three terms. Currently, only OSU does this.

How does the increase calculation work when different tuition and fee rates are charged for different groups (i.e. cohorts) of students?

A weighted average approach is applied when there are different increases for different groups of students. The HECC does so pursuant to a DOJ recommendation that the HECC base its review on a holistic approach rather than determining if any one tuition or fee combination increased by more than five percent. The calculation process is illustrated in Example 2 using a guaranteed tuition program.

Specifically, the HECC undertakes a four-step process:

1. Calculate the rate of increase for each cohort (as outlined in Example 1).
2. Obtain the number of undergraduate resident student FTE within each cohort to determine the relative proportion each cohort represents of the total resident, undergraduate enrollment.
3. Multiply the rate of increase calculated for each cohort by the relative proportion to get the weighted increase for each cohort.
4. Add the weighted increases together to determine the total weighted average increase. A total weighted average increase exceeding five percent requires HECC review.

Example 2: Increase Calculation with Multiple Cohorts

	Tuition and Fees, 2021-22	Tuition and Fees, 2022-23	Rate Increase by Cohort	FTE	Proportion of FTE	Weighted Increase
Cohort 1	\$ 12,669,60	\$ 13,049.70	3.0%	2,536	24.5%	0.7%
Cohort 2	13,040.91	13,040.91	0.0%	2,171	21.0%	0.0%
Cohort 3	13,616.10	13,616.10	0.0%	2,750	26.6%	0.0%
Cohort 4 (new students)	13,616.10	14,631.00	7.5%	2,881	27.9%	2.1%
Total				10,338	100%	2.8%

How does the increase calculation work when there are multiple campuses within a university?

With the intent to conduct the review on a holistic basis, the weighted average approach is used to calculate the increase for the university as a whole. Therefore, each campus is considered a cohort within the four-step process outlined above. The calculations can be complicated when multiple cohorts exist at each campus. As a matter of practice, HECC staff will calculate the increase for each campus, but the review threshold is applied to the increase calculated for the university as a whole.

What is the process if an institution requests an increase greater than five percent?

Upon a governing board’s approval of a tuition increase that exceeds the review threshold, the institution shall notify HECC staff of the action as soon as feasible and provide documentation and all additional information helpful to the Commission’s review as required by ORS 352.102 (5). The HECC’s formal review will begin upon official notification from the institution.

Within 7 days of formal adoption of an increase exceeding the review threshold, the institution shall provide the following documents to HECC staff, some of which are required under ORS 352.103:

1. Any and all information produced by the tuition advisory body during deliberations including any minority opinions;
2. Any and all public comments received by the tuition advisory body during the tuition setting process;
3. Minutes from all tuition advisory body meetings;
4. Any documents or information provided to the tuition advisory body;
5. All governing board and governing board committee agendas and docket items pertaining to the tuition and fee increase;
6. Pro forma budget statements, or documents of a similar nature, presented for all tuition scenarios presented to the institution’s tuition advisory body;

7. Information on how proposed tuition increase(s) impact tuition remissions;
8. The impact of that increase on students, especially historically underserved students;
9. The impact of that increase on the mission of the university;
10. Alternative scenarios involving smaller increases;
11. Information about how much revenue would be generated by each 1% resident tuition or 1% enrollment increase;
12. Any documentation on how an increase in the PUSF above the level upon which the tuition increase is based will reduce resident undergraduate tuition increase in \$20M increments; and
13. Information on cost containment efforts.

Following submission, HECC staff will conduct a review of the documents and may request additional information as necessary. As soon as practical, HECC staff will schedule a meeting with the staff of the requesting institution to review the submitted documents and any questions or comments HECC staff may have as a result.

HECC staff may also elect to contact students or other participants in an institution's tuition setting process to gather additional information. HECC staff will consider all information, submitted from any stakeholder, received within 14 days after an institution's governing board formally adopts an increase exceeding the review threshold.

The consideration of the request will occur during a public meeting of the full Commission. Due to the timeline of the universities' budget setting process, this will likely occur at the June meeting although the exact timing can vary based on circumstance.

During the meeting, public testimony will be heard specific to the request (with a focus on institutional stakeholders), institutions will have the opportunity to present their request, and HECC staff will provide a recommendation. The HECC staff recommendation will be included with the meeting materials which will be made available to the public.

What criteria will the HECC use to make its determination?

The Commission will use the criteria it adopted originally in December 2018 and subsequently endorsed in December 2020. The criteria include three focus areas as outlined on the following page. The criteria can be reviewed and revised by the Commission as needed.

Focus Area	Criteria
<p>1. Fostering an inclusive and transparent tuition-setting process.</p>	<p>A. The institution can demonstrate that students had multiple opportunities to engage in the tuition-setting process including, but not limited to, participation on the institution’s tuition advisory committee.</p> <p>B. The institution demonstrates that information about the tuition setting process was easily accessible, that the tuition-setting process was transparent, and in compliance with ORS 352.103.</p>
<p>2. Safeguarding the access and support for degree completion by historically underrepresented students.</p>	<p>A. Demonstration of impacts, with and without a tuition increase of more than 5%, on remission programs and support services that bolster retention and completion of underrepresented students.</p> <p>B. The institution has a plan for reducing tuition costs if state funding (PUSF) exceeds the funding level upon which the tuition increase is predicated.</p>
<p>3. Financial conditions demonstrating the need for resident, undergraduate tuition to be increased more than 5%.</p>	<p>A. The institution demonstrates that current and projected financial conditions compelling the need for the increase meet the critical portions of its HECC-approved mission or goals set in the HECC’s strategic plan, including documentation that alternatives to raising tuition above 5% were considered.</p> <p>B. The institution demonstrates that it has considered and implemented cost containment efforts for those costs that are within their control.</p>

Staff Recommendation:

No recommendation or action required, discussion only.

Appendix: Proposed Draft Rule Language

HIGHER EDUCATION COORDINATING COMMISSION DIVISION 13 UNIVERSITY PROGRAMS AND FINANCE

715-013-xxxx

Public University Tuition and Fee increases

(1) Definitions:

(a) “Academic year” is the period of the year where students typically attend an educational institution, which in Oregon consists of three terms (fall, winter and spring).

(b) “Cohort” is a group of students, typically based on year of entry or differentiated by the campus at which they take their courses, who are charged the same tuition or fee rates as one another while being charged a rate that differs from other such cohorts.

(c) “Full time student” is any student who is taking 45 credits or more in a given academic year.

(d) “Higher Education Coordinating Commission” or “HECC” is the body established by ORS 350.050 and appointed by the Governor.

(e) “Incidental fees” are fees set by, or with the direction of, the recognized student government which are neither included in the tuition and fees increase calculation and not subject to review by the HECC pursuant to ORS 352.105.

(f) “Mandatory enrollment fees” are ongoing fees such as, but not limited to building, health and technology fees charged to all resident undergraduate students that are not set by the recognized student government or otherwise excluded from review by the HECC pursuant to ORS 352.105.

(g) “Resident” student is a student classified as such by a public university’s Residency Classification Officer, reviewed by the Inter-institutional Residency Committee, or students granted resident tuition under ORS 352.287.

(h) “Tuition” is the amount charged for 45 credits in a given calendar year either to a resident undergraduate student in any given year or to a cohort of students. If an institution charges an additional fee for the first credit of each term that amount will be added for three terms. Differential tuition, that applies to students in certain academic programs or colleges in which students participate voluntarily, is not included in the tuition and fees increase calculation.

(i) “Tuition and fees” are the combined total of 45 credits of tuition (and any first credit fees handled as described above under Tuition) and three terms of mandatory enrollment fees for a resident undergraduate student.

(j) “Weighted tuition increase” is the method by which tuition increases are calculated for institutions with multiple cohorts who pay different tuition and mandatory enrollment fee rates.

(2) Pursuant to ORS 352.102 the HECC has the authority to review all resident undergraduate tuition and mandatory enrollment fee increases of greater than 5%.

- (a) In order to determine if this threshold has been reached, the HECC shall calculate the tuition and mandatory enrollment fee increase for each public university.
 - (1) In cases where all resident undergraduate students are charged the same rate, this calculation shall compare the combined tuition and mandatory enrollment fees charged in the current year to those approved by the institution for the upcoming academic year.
 - (2) In cases where multiple cohorts are charged different tuition rates, the HECC shall use a weighted approach in which it shall individually calculate the increase for each cohort of students and then weight each cohort being charged a different rate by its projected relative proportion of the projected total resident undergraduate population. These weighted increases shall be combined to calculate the overall increase.
 - (3) For purposes of this rule, public universities with separate campuses charging differing tuition or mandatory enrollment fee rates shall use the weighted increase approach.
 - (b) In any case where the calculated increase is less than 5%, no further action is required.
 - (c) Should an increase, or in the case of public universities with multiple campuses or those who use cohorts, a weighted increase, be greater than 5%, review by the HECC is required.
- (3) Should review be required, the public university must inform the HECC within seven days of its board adopting a tuition increase requiring such review. In providing such notification, the university must include the following documents related to the advisory board process, many of which are required under ORS 352.103:
- (a) Any and all information produced by the tuition advisory body during deliberations including any minority opinions;
 - (b) Any and all public comments received by the tuition advisory body during the tuition setting process;
 - (c) Minutes from all tuition advisory body meetings;
 - (d) Any documents or information provided to the tuition advisory body;
 - (e) All governing board and governing board committee agendas and docket items pertaining to the tuition and fee increase;
 - (f) Pro forma budget statements, or documents of a similar nature, presented for all tuition scenarios presented to the institution's tuition advisory body;
 - (g) Information on how proposed tuition increase(s) impact tuition remissions;
 - (h) The impact of that increase on students, especially historically underserved students;
 - (i) The impact of that increase on the mission of the university;
 - (j) Alternative scenarios involving smaller increases;
 - (k) Information about how much revenue would be generated by each 1% resident tuition or 1% enrollment increase;
 - (l) Any documentation on how an increase in the PUSF above the level upon which the tuition increase is based will reduce the resident undergraduate tuition increase in \$20M increments; and
 - (m) Information on cost containment efforts.
 - (n) Any other documents that HECC staff request as part of their review pursuant to the criteria outlined below in subsection 6.
- (4) Following board action that requires HECC review, the recognized student government of the relevant university shall have 14 days to submit any documents or response it deems appropriate or relevant to the HECC's consideration.
- (5) Any tuition and fee increase review shall take place at a regularly scheduled HECC Commission meeting which includes the full Commission membership and shall include opportunities for both the university and recognized student government to discuss the proposed increase. The HECC staff recommendation will be included with the meeting materials which will be made available to the public.
- (6) The criteria by which tuition increases shall be evaluated shall be as follows and shall focus on three areas.
- (a) Focus Area One: Fostering an inclusive and transparent tuition-setting process
 - (1) The institution can demonstrate that students had multiple opportunity to engage in the tuition-setting process including, but not limited to, participation on the institution's tuition advisory committee.

- (2) The institution demonstrates that information about the tuition setting process was easily accessible, that the tuition-setting process was transparent and in compliance with ORS 352.103
- (b) Focus Area Two: Safeguarding the access and support for degree completion by historically underrepresented students
 - (1) Demonstration of impacts, with and without a tuition increase of more than 5%, on remission programs and support services that bolster retention and completion of underrepresented students.
 - (2) The institution has a plan for reducing tuition costs if the PUSF exceeds the funding level upon which the tuition increase is predicated.
- (c) Focus Area Three: Financial conditions demonstrating the need for resident, undergraduate tuition to be increased more than 5%
 - (1) The institution demonstrates that current and projected financial conditions compelling the need for the increase request to meet the critical portions of its HECC-approved mission or goals set in the HECC's strategic plan, including documentation that alternatives to raising tuition above 5% were considered.
 - (2) The institution demonstrates that it has considered and implemented cost containment efforts for those costs that are within their control.
- (d) In making its recommendation, HECC staff shall consider the totality of an institution's submission. An institution's shortcoming or success with respect to any one criterion shall not necessarily determine the Commission's overall conclusion about the appropriateness of the proposed increase. The criteria can be expanded by majority vote of the Commission within a timeframe sufficient to allow for the appropriate notification to the universities' tuition advisory bodies.

Statutory Authority: 350.075(6), 350.075(3)(E)(B)(iii)(f)

Statutes Implemented: ORS 350.075(3)(E)(B)(iii)(f) 352.102-105, ORS 352.103