

STATE BOARD OF EDUCATION – ADMINISTRATIVE RULE SUMMARY**Title/OAR #:** Adoption—Human Sexuality Education/OAR 581-022-1440**Staff/Office:** Sarah Drinkwater, Mitch Kruska, Ely Sanders, Office of Learning **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: Amends existing rule on human sexuality education to align with new child abuse instructional requirements in SB 856 (2015).

BACKGROUND:

The State Board of Education has the responsibility of updating Oregon Administrative Rules to reflect new legislation. SB 856 (Sex Abuse Prevention Instructional Program) became effective June 11, 2015. SB 856 requires each school district to provide 4 sessions annually of sexual abuse prevention instruction from kindergarten through grade 12. Updates are required to OAR 581-022-1440 (Human Sexuality Education) to reflect these new requirements.

OAR 581-022-1440, passed in 2009, requires each school district to teach an age appropriate, comprehensive plan of instruction focusing on human sexuality education, HIV/AIDS and sexually transmitted disease prevention in elementary and secondary schools as an integral part of health education and other subjects. ODE convened two stakeholder groups that included over 15 professional experts in child sex abuse prevention and sexual violence prevention to inform modifications and additions to OAR 581-022-1440. All modifications and additions are supported and aligned with SB 856.

The State Board of Education has discretion on proposed modifications and additions to OAR 581-022-440. SB 856 does not require the State Board to adopt rules.

ISSUES/CONCERNS THAT SURFACED DURING RULE WORK:**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:** No fiscal impact to the Department.

EFFECT OF YES VOTE: OAR 581-022-1440 will be modified to reflect and align with the new instructional requirements of SB 856.

EFFECT OF NO VOTE: New requirements for districts will not be reflected in OAR.

STAFF RECOMMENDATION:

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

Comments:

CREATED BY EN 11/19/15

581-022-1440

Human Sexuality Education

(1) The following definitions apply to Oregon Administrative Rule 581-022-1440:

(a) "Age-appropriate" means curricula designed to teach concepts, information, and skills based on the social, cognitive, emotional, experience and developmental level of students;

(b) "Balanced" means instruction that provides information with the understanding of, and strength of the preponderance of evidence;

(c) "Best practice" means a practice/curriculum that is based in proven theory and practices, and has some evidence of effectiveness, but has not specifically gone through a randomized controlled trial that is needed to become an evidence-based practice;

(d) "Comprehensive plan of instruction" (as defined by Oregon education statutes) means k–12 programs that emphasize abstinence, but not to the exclusion of condom and contraceptive skills-based education. The human sexuality information provided is complete, balanced, and medically accurate. Opportunities are provided for young people to develop and understand their values, attitudes, beliefs and decisions about sexuality as a means of helping young people exercise responsibility regarding sexual relationships and sexual health decisions as further defined by subsections (2) and (3);

(e) "Consensual" means the presence of a "yes" when "no" is a viable option;

(f) "Culturally inclusive" means using materials and instruction strategies that respond to culturally diverse individuals, families, and communities in a respectful and effective manner;

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(g) "Gender expression" means how people express their gender based on mannerisms, dress, etc. A person's gender expression/presentation may not always match their gender identity;

(h) "Gender identity" means a person's internal sense of being male, female or some other gender, regardless of whether the individual's appearance, expression or behavior differs from that traditionally associated with the individual's sex assigned at birth;

(i) "Gender role" means the socially determined sets of behaviors assigned to people based on their biological sex;

(j) "Gender sensitive" means using materials and instruction strategies that are sensitive to individual's similarities and differences regarding gender role, gender identity and/or sexual orientation;

(k) "Healthy relationship" means one in which both people feel a healthy sense of "self". Each person feels comfortable and safe when spending time with the other person. Two individuals try to meet each other's needs, and each can ask for help and support, within and outside of the relationship without fear of criticism or harm;

(l) "Medically accurate" means information that is established through the use of the 'scientific method.' Results can be measured, quantified, and replicated to confirm accuracy, and are reported or recognized in peer-reviewed journals or other authoritative publications;

(m) "Non-consensual sexual behavior" means any sexual act that is inflicted upon a person who is unable to grant consent or that is unwanted and compelled through the use of physical force, manipulation, threats, or intimidation;

(n) "Research-based" means intervention is based on theoretical approaches that have been shown through scientific evaluation to be effective in achieving the intended outcomes. Evaluation based on studies using scientifically based designs; results published in recognized, peer-reviewed journals;

(o) "Sexual intercourse" means a type of sexual contact or activity involving one of the following:

(A) Vaginal sex;

(B) Oral sex; or

(C) Anal sex;

(p) "Sexual orientation" means an individual's actual or perceived heterosexuality, homosexuality, bisexuality or other romantic and/or sexual attraction;

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(q) “Shame or fear based” means terminology, activities, scenarios, context, language, and/or visual illustrations that are used to devalue, ignore, and/or disgrace students who have had or are having sexual relationships. Not all curricula or activities that describe risks of sexual activities can be considered “fear-based;”

(r) “Skills-based” means instructional strategy that has students practice the desired skill; and

(s) “Student bystander behavior” means behaviors in which students who witness or learn about a peer’s harmful behaviors or attitudes intervene when it is safe to do so.

(2) Each school district shall provide an age-appropriate, comprehensive plan of instruction focusing on human sexuality education, HIV/AIDS and sexually transmitted infections and disease prevention in elementary and secondary schools as an integral part of health education and other subjects. Course material and instruction for all human sexuality education courses that discuss human sexuality in public elementary and secondary schools shall enhance students’ understanding of sexuality as a normal and healthy aspect of human development. **As part of the comprehensive plan of human sexuality instruction, each school district board shall adopt a child sexual abuse prevention instructional program for students in kindergarten through grade 12 as defined in subsection (9).** In addition, the HIV/AIDS and sexually transmitted infections and disease prevention education and the human sexuality education comprehensive plan shall provide adequate instruction at least annually, for all students’ grades 6-8 and at least twice during grades 9–12.

(3) Parents, teachers, school administrators, local health department staff, other community representatives, and persons from the medical community who are knowledgeable of the latest scientific information and effective education strategies shall develop the plan of instruction required by this rule, and in alignment with the Oregon Health Education Standards and Benchmarks, cooperatively.

(4) Local school boards shall approve the plan of instruction and require that it be reviewed and updated biennially in accordance with new scientific information and effective education strategies.

(5) Any parent may request that his/her child be excused from that portion of the instructional program required by this rule under the procedures set forth in ORS 336.035(2).

(6) The comprehensive plan of instruction shall include information that:

(a) Promotes abstinence for school-age youth and mutually monogamous relationships with an uninfected partner for adults as the safest and mostly responsible sexual behavior to reduce the risk of unintended pregnancy and exposure to HIV, Hepatitis B/C and other sexually transmitted infectious diseases;

(b) Allays those fears concerning HIV that are scientifically groundless;

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- (c) Is balanced and medically accurate;
- (d) Provides balanced, accurate information, and skills-based instruction on the risks and benefits of contraceptives, condoms and other disease reduction measures which reduce the risk of unintended pregnancy, exposure to HIV, hepatitis B/C and other sexually transmitted infections and diseases;
- (e) Discusses responsible sexual behaviors and hygienic practices which may reduce or eliminate unintended pregnancy, exposure to HIV, hepatitis B/C and other sexually transmitted infections and diseases;
- (f) Stresses the risks of contracting HIV, hepatitis B and C and other infectious diseases through sharing of needles or syringes for injecting illegal drugs and controlled substances;
- (g) Discusses the characteristics of the emotional, physical and psychological aspects of a healthy relationship;
- (h) Discusses the benefits of delaying pregnancy beyond the adolescent years as a means to better ensure a healthy future for parents and their children. Students shall be provided with statistics based on the latest medical information regarding both the health benefits and the possible side effects of all forms of contraceptives, including the success and failure rates for prevention of pregnancy, sexually transmitted infections and diseases;
- (i) Stresses that HIV/STDs and hepatitis B/C can be possible hazards of sexual contact;
- (j) Provides students with information about Oregon laws that address young people's rights and responsibilities relating to childbearing and parenting, and prevention of the spread of STDs, STIs, including testing for STDs, STIs, HIV and pregnancy;
- (k) Advises pupils of the circumstances in which it is unlawful under ORS 163.435 and 163.445 for persons 18 years of age or older to have sexual relations with persons younger than 18 years of age to whom they are not married;
- (l) Encourages positive family communication and involvement and helps students learn to make responsible, respectful and healthy decisions;
- (m) Teaches that no form of sexual expression, or behavior is acceptable when it physically or emotionally harms oneself or others and that it is wrong to take advantage of or exploit another person;
- (n) Teaches that consent is an essential component of healthy sexual behavior. Course material shall promote positive attitudes and behaviors related to healthy relationships and sexuality, and encourage active student bystander behavior;

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(o) Teaches students how to identify and respond to attitudes and behaviors which contribute to sexual violence;

(p) Validates through course material and instruction the importance of honesty with oneself and others, respect for each person's dignity and well-being, and responsibility for one's actions;

(q) Uses inclusive materials, language, and strategies that recognizes different sexual orientations, gender identities and gender expression;

(r) Includes information about relevant community resources, how to access these resources, and the laws that protect the rights of minors to anonymously access these resources; and

(s) Is culturally inclusive.

(7) The comprehensive plan of instruction shall emphasize skills-based instruction that:

(a) Assists students to develop and practice effective communication skills, the development of self-esteem and the ability to resist peer and partner pressure;

(b) Provides students with the opportunity to learn about and personalize peer, media, technology and community influences that both positively and negatively impact their attitudes and decisions related to healthy sexuality, relationships, and sexual behaviors, including decisions to abstain from sexual intercourse;

(c) Enhances students' ability to access valid health information and resources related to their sexual health;

(d) Teaches how to develop and communicate relational, sexual and reproductive boundaries;

(e) Is research-based, evidence-based and/or best practice; and

(f) Aligns with the Oregon Health Education Content Standards and Benchmarks.

(8) All human sexuality education programs shall emphasize that abstinence from sexual intercourse, when practiced consistently and correctly, is the only method that is 100 percent effective against unintended pregnancy, HIV infection (when transmitted sexually), hepatitis B/C infection, and other sexually transmitted infections and diseases. Abstinence is to be stressed, but not to the exclusion of contraceptives and condoms for preventing unintended pregnancy, HIV infection, sexually transmitted infections and diseases, and hepatitis B/C. Such courses are to acknowledge the value of abstinence while not devaluing, ignoring or stigmatizing those students who have had or are having sexual relationships. Further, sexuality education materials, instructional strategies, and activities must not, in any way, use shame or fear based tactics.

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(9) As part of the comprehensive plan of human sexuality instruction, each school district shall provide child sexual abuse prevention instruction from kindergarten through grade 12. School Districts must provide a minimum of four instructional sessions per year. One instructional session is equal to one standard class period.

(910) Materials and information shall be presented in a manner sensitive to the fact that there are students who have experienced, perpetrated, or witnessed sexual abuse and relationship violence.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 336.455 & 336.455

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; EB 2-1997, f. & cert. ef. 3-27-97; ODE 25-2002, f. & cert. ef. 11-15-02; ODE 15-2007, f. & cert. ef. 7-6-07; ODE 25-2009, f. & cert. ef. 12-10-09; ODE 10-2013, f. & cert. ef. 4-10-13