

581-002-0035

Waivers

The Director of the Department of Education may grant waivers as follows:

(1) Waiver of a specific standard: To address an immediate concern or need, a school district may petition the Director for a waiver of a specific standard. A petition shall specify the reason(s) the district is seeking the waiver and other relevant information. If it is determined that the request conforms with the intent of the standards, the Director shall recommend the waiver to the State Board. Waivers under this provision may be granted for up to one year.

(2) Educational Flexibility Partnership Demonstration Act (Ed-Flex) Waiver:

(a) This federal Act allows school districts to request a waiver of statutory or regulatory requirements under the following federal programs or Acts:

(A) Elementary and Secondary Education Act (ESEA) Title I, Helping Disadvantaged Children Meet High Standards;

(B) ESEA Title II, Teacher Quality;

(C) ESEA Title IV, Safe Drug Free Schools;

(D) ESEA Title V, Innovative Education Program Strategies;

(E) ESEA Title VII, Part C — Emergency Immigrant Education;

(F) Carl D. Perkins Vocational and Applied Technology Education Act.

(b) The application must demonstrate that the school district, if the waiver is granted, will still meet the underlying purposes of the federal statutory requirements. The request of an Ed-Flex Waiver must be made on the appropriate application form available from the Department of Education. Waivers under this provision may be granted for periods not to exceed five years.

(3) ADM Report Waivers:

(a) “ADM” means average daily membership as defined in ORS 327.006(3).

(b) If a state of emergency is declared pursuant to ORS 401.165 et. seq., and all public schools are closed by order of the Governor, the Director may waive a report of ADM that is otherwise required under ORS 327.133.

Statutory/Other Authority: ORS 326.051 & ORS 327.133

Statutes/Other Implemented: ORS 326.051, 327.133, 329.077 & 329.555

581-015-2045

Age Limitations and Exceptions to FAPE

(1) A district must admit an otherwise eligible student who has not yet reached 21 years of age on or before September 1 of the current school year.

(2) A student who receives a regular high school diploma is no longer entitled to FAPE. A regular education diploma does not include an alternative degree that is not fully aligned with the state's academic standards, such as a certificate or general educational development credential (GED).

(3) (a) If a school district chooses to provide special education to a student with a regular high school diploma, that student remains eligible for FAPE.

(b) For students who were first enrolled in ninth grade in the 2016-17 school year or earlier or were first enrolled in ninth grade in the 2017-18 school year and had an early graduation plan approved before March 17, 2020, the parent or guardian may request that the district delay awarding the diploma, and the student continue to receive special education services, through the end of the board-adopted school calendar for the current school year. Upon receipt of a request, the IEP team must meet to discuss the continued need for special education services pending graduation.

(A) The IEP team may determine that it is appropriate to delay graduation and continue to provide service. The IEP team must develop a plan to provide credit earning options under the Oregon Department of Education's Distance Learning for All guidance that enables the student to graduate by August 31, 2020. FAPE must continue to be provided until graduation; or

(B) The IEP team may determine that the student no longer requires services and should be awarded a diploma without delay. The parent or guardian retains rights under Procedural Safeguards.

(4) The obligation to make a FAPE available to individuals with disabilities 18 through 21 years old who have been convicted as adults and are incarcerated in an adult correctional facility applies only to those individuals who, in their last educational placement before their incarceration in the adult correctional facility:

(a) Were identified as being a child with a disability as defined in OAR 581-015-2000(4); or

(b) Had an individualized education program.

(5) For purposes of subsection (4) of this rule,

(a) "Adult correctional facility" means:

- (A) A local correctional facility as defined ORS 169.005;
- (B) A regional correctional facility as defined in ORS 169.620; or
- (C) A Department of Corrections institution as defined in ORS 421.005;
- (b) "Identified as being a child with a disability" means has been determined eligible or was involved in the process of determining the individual's disability and eligibility for special education and related services under OAR 581-015-2130 to 581-015-2180; and
- (c) "Last educational placement" includes juvenile correctional facilities.

Statutory/Other Authority: ORS 343.055

Statutes/Other Implemented: ORS 339.115 & 34 CFR 300.102

581-016-0710

High School Requirements for Graduation

In order for a student to graduate from the Oregon School for the Deaf (OSD), he/she must attain a certain number of units, master essential learning skills, meet competencies, and maintain/attain attendance minimums. Four different diplomas/certificates are available, depending on the goals and abilities of each student.

(1) To receive a diploma the student must:

- (a) Meet the requirements specified for a diploma in 581-022-2000;
- (b) Meet all OSD-required competencies in language, reading, and mathematics; and
- (c) Maintain required attendance.

(2) To receive a modified diploma the student must:

- (a) Meet the requirements specified for a modified diploma in 581-022-2010;
- (b) Complete modified course work as agreed upon in the IEP;
- (c) Have satisfactory progress in school; and
- (d) Maintain required attendance.

(3) To receive an extended diploma the student must:

(a) Meet the requirements specified for an extended diploma in 581-022-2015

(3) To receive an alternative certificate of IEP completion the student must meet the requirements specified in 581-022-2020 and complete the IEP goals. The certificate may be issued even if the student has not completed 22 units and has not maintained the required days of attendance.

(4) Notwithstanding anything else in this rule, the Oregon School for the Deaf must award a diploma, modified diploma, extended diploma, or alternative certificate to students who were first enrolled in ninth grade in the 2016-17 school year or earlier or were first enrolled in ninth grade in the 2017-18 school year and had an early graduation plan approved before March 17, 2020, and fulfill the state requirements as described in 581-022-0103.

Statutory/Other Authority: ORS 343 & 346

Statutes/Other Implemented: ORS 346.010

581-021-0584

Oregon State Seal of Biliteracy

(1) The Department of Education shall develop a process by which school districts shall submit to the Department information on each student who is a candidate for a State Seal of Biliteracy.

(2) The Superintendent of Public Instruction shall award a State Seal of Biliteracy to a student who meets all of the following criteria:

(a) Completed all state and district graduation requirements;

(b) Met the Essential Skills for reading and writing in English;

(c) Demonstrated proficiency in one or more world languages other than English in reading, writing listening and speaking through:

(A) One or more examinations and passing scores for each that are identified by the Department of Education; or

(B) Work sample, body of evidence or portfolio.

(3) Notwithstanding subsection (2) of this rule, the Superintendent of Public Instruction shall award a State Seal of Biliteracy to student who was first enrolled in ninth grade in the 2017-18 or 2016-17 and meets all of the following criteria:

- (a) Completed all state and district graduation requirements; and
- (b) Demonstrated proficiency in one or more world languages other than English in reading, writing listening and speaking through:
 - (A) One or more examinations and passing scores for each that are identified by the Department of Education; or
 - (B) Work sample, body of evidence or portfolio.

Statutory/Other Authority: ORS 326.051

Statutes/Other Implemented: ORS 326.051

History: ODE 28-2016, f. & cert. ef. 4-28-16

581-022-0103

State Standards for the 2019-20 School Year

(1) Applicability

- (a) This rule sets forth the state standards for school districts and public charter schools for the 2019-2020 school year.
- (b) The definitions set forth in OAR 581-022-0102, 581-022-2010(1), 581-022-2015(1), and 581-022-2020(1) apply to this rule.
- (c) Unless specifically referenced herein, all other rules in this division are waived for the duration of this rule unless specifically added back by the Director through order.

(2) Diploma requirements

(a) Each school district board and public charter school with jurisdiction over high school programs must award diplomas, modified diplomas, extended diplomas, or alternative certificates to students who were first enrolled in ninth grade in the 2016-17 school year or earlier or were first enrolled in ninth grade in the 2017-18 school year and had an early graduation plan approved before March 17, 2020, and fulfill the state requirements as described in this rule.

(b) Regular diploma

(A) To receive a regular diploma, students must earn a minimum of 24 credits to include at least:

- (i) English Language Arts — 4 (must include the equivalent of one unit in Written Composition);

(ii) Mathematics —3 (must include one unit at the Algebra I level and two units that are at a level higher than Algebra I);

(iii) Science — 3;

(iv) Social Sciences 3 — (including history, civics, geography and economics (including personal finance));

(v) Health Education — 1;

(vi) Physical Education — 1;

(vii) Career and Technical Education, The Arts or World Languages — 3 (units must be earned in any one or a combination).

(B) A district school board or public charter school with a three-year high school may submit through the waiver process alternative plans to meet unit requirements;

(C) A school district or public charter school must accept any credits earned by students qualified for the additional district credit requirements waiver in another school district or public charter school and must apply them toward the 24 Units of Credit Requirements for the diploma.

(D) A school district or public charter school may grant high school credit for courses taken prior to grade 9 if students taking pre-grade 9 courses are required to meet performance criteria that are equivalent to the performance criteria for students taking the same high school courses.

(c) Modified diploma

(A) School districts and charter schools with jurisdiction over high school programs shall award a modified diploma only to students who have demonstrated the inability to meet the full set of academic content standards for a high school diploma even with reasonable modifications and accommodations but who fulfill all state requirements as described in this rule and meets the eligibility criteria in OAR 581-022-2010(3).

(B) School districts and public charter schools must comply with OAR 581-022-2010(4).

(C) To receive a modified diploma, students must earn a minimum of 24 credits, between grade 9 and the end of their high school career with at least 12 of those credits to include:

(i) English Language Arts — 3;

(ii) Mathematics — 2;

(iii) Science — 2;

(iv) Social Sciences (which may include history, civics, geography and economics (including personal finance)) — 2;

(v) Health Education — 1;

(vi) Physical Education — 1; and

(vii) Career Technical Education, The Arts or World Languages (units may be earned in any one or a combination) — 1.

(vii) Any combination of credits awarded to meet the needs of the individual student as specified in the education plan of the student with the expectations and standards aligned to the appropriate grade level academic content standards, including additional core credits, professional technical education, electives, and career development — 12.

(D) Students may earn units of credit through regular education with or without accommodations or modifications and through modified courses.

(E) Students shall have the option to earn credit for demonstrating proficiency. A student may be given credit for successful demonstration of knowledge and skills that meets or exceeds defined levels of performance. Students may demonstrate proficiency through classroom work or documentation of learning experiences outside of school, or through a combination of these means.

(F) School districts and public charter schools shall ensure that students have access to needed courses, modifications and supports to pursue a modified diploma and to progress in the general education curriculum.

(G) A school district or public charter school shall grant credit toward a modified diploma only for courses that contain substantial academic content. A school district or public charter school shall grant credit for a modified diploma through a continuum of instruction beginning at basic skills and progressing through high level skills.

(H) A school district or public charter school shall award a regular diploma under OAR 581-022-2000 if all requirements for a regular diploma are met. Completion of one or more modified courses shall not prohibit a student from earning a regular diploma; however, required core courses taken under modified conditions must be retaken under standard conditions to be counted toward a regular diploma.

(I) A school district or public charter school shall grant credit toward a modified diploma according to individual student needs across academic content areas including applied, consumer, academic, or knowledge and skill development.

(J) A school district or public charter school shall inform the student and parent or guardian of the student if the courses in grades 9-12 have been modified for an individual student.

(K) A school district or public charter school shall provide transcripts which clearly identify modified courses that do not count toward the regular diploma but that do count toward a modified diploma.

(L) Each student receiving a modified diploma shall have the option of participating in the high school graduation ceremony with the members of their class receiving a high school diploma.

(M) Transition services and other services designed to meet the unique needs of the student may be provided to the student through an interagency agreement entered into by the school district if the individualized education program developed for the student indicates that the services may be provided by another agency. The school district or public charter school retains the responsibility for ensuring that the student has access to the number of service hours required to be provided to the student.

(d) Extended diploma

(A) A school district or public charter school shall award an extended diploma only to students who have demonstrated the inability to meet the full set of academic content standards for a high school diploma with reasonable modifications and accommodations but who fulfill all state requirements as described in this rule and meet the eligibility criteria in OAR 581-022-2015(5)(b).

(B) A school district or public charter school may award an extended diploma to a student only upon the consent of the parent or guardian of the student, or upon the consent of the adult student or emancipated minor student as required by OAR 581-022-2015(4).

(C) To receive an extended diploma, students must, while in grade nine through completion of high school, complete 12 credits, which may not include more than six credits earned in a self-contained special education classroom and shall include:

(i) Two credits of mathematics;

(ii) Two credits of English;

(iii) Two credits of Science;

(iv) Three credits of history, geography, economics, or civics;

(v) One credit of health;

(vi) One Credit of physical education; and

(vii) One credit of arts or a second language.

(D)(i) A student shall have the opportunity to meet the requirements of an extended diploma by the later of four years after starting grade nine or the student reaching the age of 21 years, if the student is entitled to a public education until the age of 21 years under state or federal law.

(b) A student may complete the requirements for an extended diploma in less than four years if the parent/guardian or adult student gives consent. The consent must be written and must clearly state that the parent/guardian or adult student is waiving the 4 years to complete the requirements for an extended diploma. A copy of all consents must be sent to the district

superintendent. Each school district must annually provide the number of consents obtained to the State Superintendent of Public Instruction. The consent may not be used to allow a student to satisfy the requirements for an extended diploma in less than three years.

(E) A school district or public charter school may not deny a student who has the documented history described in subsection (1)(a) of this section the opportunity to pursue a diploma with more stringent requirements than a modified diploma or an extended diploma for the sole reason that the student has the documented history.

(F) Transition services and other services designed to meet the unique needs of the student may be provided to the student through an interagency agreement entered into by the school district if the individualized education program developed for the student indicates that the services may be provided by another agency. The school district or public charter school retains the responsibility for ensuring that the student has access to the number of service hours required to be provided to the student.

(e) Alternative certificate

(A) A School district or public charter school shall award an alternative certificate to a student who does not satisfy the requirements for a high school diploma, a modified diploma or an extended diploma.

(B) Each district school board or public charter school governing board with jurisdiction over high school programs shall define criteria for an alternative certificate and shall award an alternative certificate to those students who have met the criteria requirements as described in district school board policies.

(C)(i) A student shall have the opportunity to meet the requirements of an alternative certificate by the later of four years after starting grade nine or the student reaching the age of 21 years, if the student is entitled to a public education until the age of 21 years under state or federal law.

(ii) A student may complete the requirements for an alternative certificate in less than four years if the parent/guardian or adult student gives consent as required under OAR 581-022-2020(4)(c).

(D) Each student receiving an alternative certificate shall have the option of participating in the high school graduation ceremony with the members of their class receiving a high school diploma.

(E) Transition services or other services designed to meet the unique needs of the student may be provided to the student through an interagency agreement entered into by the school district if the individualized education program developed for the student indicates that the services may be provided by another agency. The school district or public charter school retains the responsibility for ensuring that the student has access to the number of service hours required to be provided to the student.

(3) Credit options

(a) A school district or public charter school must grant required and elective credit towards the diploma or modified diploma provided the student earns the credit by meeting the requirements of one or more of the options described in this rule.

(b) A school district or charter school may grant credit to a student if the student demonstrates defined levels of proficiency or mastery of recognized standards (e.g., state academic content standards and essential skills, industry-based or other national or international standards) by any one or more of the following options:

(A) Successfully completing classroom or equivalent work (e.g., supervised independent study, career-related learning experiences, project based learning), which meets Common Curriculum Goals and academic content standards required by OAR 581-022-2030;

(B) Successfully completing classroom or equivalent work designed to measure proficiency or mastery of identified standards (knowledge and skills) in class or out of class, where hours of instruction may vary;

(C) Successfully passing an appropriate exam designed to measure proficiency or mastery of identified standards (knowledge and skills);

(D) Providing a collection of work or other assessment evidence which demonstrates proficiency or mastery of identified standards (knowledge and skills);

(E) Providing documentation of prior learning activities or experiences which demonstrates proficiency or mastery of identified standards (knowledge and skills) (e.g., certification of training, letters, diplomas, awards, etc.); or

(c) Notwithstanding subsection (2) of this rule, for courses offered in the second semester or third trimester of the 2019-20 school year, a school district must grant credit to a student if:

(A) The student was first enrolled in ninth grade in the 2016-17 school year or earlier or was first enrolled in ninth grade in the 2017-18 school year and had an early graduation plan approved before March 17, 2020; and

(B) As of March 16, 2020, was maintaining a passing grade.

(4) Distance learning for all. School districts and public charter schools must develop and implement a distance learning for all plan that aligns with the Distance Learning for All Guidance issued by the Oregon Department of Education.

(5) Special education for children with disabilities. School districts and public charter schools must provide services for students who experience disability in accordance with IDEA and applicable Oregon Administrative Rules.

(6) Emergent bilinguals. School districts and public charter schools must provide students identified as English learners English language development and grade-level content area instruction.

(7) Talented and gifted. School districts must serve students identified as talented and gifted by accommodating assessed levels of learning and accelerated rates of learning.

(8) Alternative education programs. School districts must comply with OAR 581-022-2505(3)(b) and (5).

(9) Equal educational opportunities. School districts and public charter schools must provide equity, opportunity and access for all students as required by OAR 581-021-0045 and 581-021-0046.

(10) School counseling. School districts and public charter schools must provide school counseling services to all students. Counseling services must align to the guidance issued by the American School Counseling Association: The School Counselor and Virtual School Counseling (Adopted 2017).

(11) Student safety

(a) School districts and public charter schools must create systems or processes for reporting child abuse pursuant to ORS 419B.010 that take into account the unique situation of distance learning. School districts and public charter schools must make those systems or processes accessible to any district personnel who meet the definition of “public or private official” in ORS 419B.005(6).

(b) School districts and public charter schools must review and if necessary revise policies and procedures relating to appropriate electronic communication with students. School districts and charter schools must make guidance based on those policies and procedures available to all school district or charter school personnel.

(12) Personnel

(a) All teachers, specialists, and administrators employed by school districts must hold valid Oregon licenses and be assigned in accordance with the individual license district policies, program goals and applicable statutes and administrative rules.

(b) Any school district employing teacher aides must follow applicable Oregon Administrative Rules.

(13) Fingerprinting of subject individuals in positions not requiring licensure as teachers, administrators, personnel specialists, school nurses. All public school districts must comply with the requirements for Fingerprinting of subject individuals as defined in and in compliance with OAR 581-021-0500.

(14) Individual student assessment and reporting. School districts and public charter schools must assess and record each individual student's progress and achievement:

(a) For the fall terms, in all subject areas of instruction and to academic content standards consistent with ORS 329.045 and OAR 581-022-2030; and

(b) For the spring terms, under the school district's distance learning plan.

(15) Student education records. School districts and public charter schools must maintain education records of students according to the provisions of OARs 581-021-0210 through 581-021-0440.

(16) Record and reports. School districts and public charter schools must provide all records and reports required by the Oregon Department of Education.

(17) Complaint procedures. School districts must maintain a process for the prompt resolution of a complaint as required by OAR 581-022-2370.

(18) Assurances. School districts must report compliance with the standards set forth in this rule for the 2019-20 school year:

(a) By November 1, 2020, to the school board of the school district in a public meeting and by posting a report on compliance to the school district's web page. The school board must acknowledge receipt of the report prior to February 15, 2021;

(b) By November 15, 2020, to the Oregon Department of Education on a form to be provided by the Department.

Statutory/Other Authority: ORS 326.051, ORS 329.451, 659.850, 343.409, 327.103 & 336.625

Statutes/Other Implemented: ORS 329.451, 659.850, 343.409, 327.103 & 336.625

581-023-0006

Student Accounting Records and State Reporting

(1) The following definitions and abbreviations apply to this rule:

(a) "Active roll" means the list of students enrolled and attending the school or program during the current school year;

(b) "ADA" means average daily attendance;

(c) "ADM" means average daily membership;

(d) "Alternative program" means any private or public alternative program providing instruction or instruction combined with counseling under ORS 336.635;

(e) "Class" means a separate group of students under the direction of a teacher.

(f) "Day in session" means a scheduled day of instruction during which students are under the guidance and direction of teachers;

(g) "Department" means the Oregon Department of Education;

(h) "Full school day" means the length of time a school or program is normally in session during the day in compliance with OAR 581-022-2320;

(i) "Full-day kindergarten program" means a program providing kindergarten that meets the standards and minimum number of hours of instruction set forth in OAR 581-022-2320 and is in session during the day in compliance with OAR 581-022-2320;

(j) "FTE" means full-time equivalency;

(k) "Half-day kindergarten program" means a program providing kindergarten that complies with the minimum hours of instruction in OAR 581-022-2320(5).

(l) "Inactive roll" means the list of students enrolled for purposes of credit but not attending the school or program. Includes students attending private alternative or Job Corps programs, students withdrawn after ten consecutive days' absence and students served on a tutorial basis outside the classroom;

(m) "Instruction" for purposes of reimbursement of alternative programs means all activities that are approved by the student's resident school district, consistent with Oregon's academic and career related learning standards, and designed to lead to student achievement of those standards, including participation in Oregon state assessment, where applicable.

(n) "Instructional unit" means a school or other organizational arrangement which provides instruction of a given type or types;

(o) "Intermediate group" means instruction provided to a student receiving a comprehensive instructional program consistent with OAR 581-022-1210 and individually placed by a school district in an alternative program approved by a school district to a class of six to 15 students;

(p) "Large group" means instruction consistent with OAR 581-022-2030 and provided to a student individually placed by a school district in an alternative program approved by a school district to a class of 16 or more students;

(q) "Nonpublic school" means instruction provided by an individual or institution listed in ORS 339.030 as exemptions to the compulsory attendance requirements set out in ORS 339.010.

(r) "Regular school program" means that which is offered to comply with the standards adopted by the State Board of Education and compulsory school attendance law. This does not include summer school, adult education, or pre-kindergarten programs;

(s) "Small group" means instruction provided to a student receiving a comprehensive instructional program consistent with OAR 581-022-2030 and individually placed by a school district in an alternative program approved by the school district to a class of two to five students;

(t) "Superintendent" means the State Superintendent of Public Instruction;

(u)(A) "Teacher" means:

(i) An appropriately licensed staff member with the responsibilities of a teacher in OAR 584-036-0011 or with the responsibilities of teacher described in the definition of a teacher in ORS 342.120; and

(ii) For purposes of private alternative education programs, an appropriately licensed or unlicensed staff member with the responsibilities of a teacher in OAR 584-036-0011 or with the responsibilities of teacher described in the definition of a teacher in ORS 342.120.

(B) "Teacher" does not include an "Educational Assistant" as defined by ORS 342.120 and OAR 581-037-0005 or "Instructional Assistant" described in 584-036-0011.

(v) "Tutorial" means instruction provided to a student receiving a comprehensive instructional program consistent with OAR 581-022-2030 and individually placed by a school district in an alternative program approved by a school district to one student.

(2) Instructions pertaining to the maintenance of student accounting records and state reporting shall be published by the Department.

(3) Each school district and ESD shall:

(a) Permanently maintain accounting records of student enrollment, attendance, membership, resident/nonresident status, and such other student information as may be required, for each student enrolled in regular school programs operating during the regular school year. Such records shall utilize uniform definitions of each student measure as stated in this rule;

(b) Designate the residency for school purposes, subject to the provisions of ORS 327.006 and 339.133 of each student enrolled in the district;

(c) Have in operation an attendance accounting system which is adequately controlled and enables the district's chief administrator to certify in writing the accuracy of reported data;

(d) Report enrollment, attendance, membership, and such other information as the Superintendent may require, within 15 days of the end of the collection periods. Reports for the period ending the first school day in October shall be submitted no later than November 15.

(e) Retain daily source records of enrollment, membership and attendance for a period of no less than two years. Records, whether paper or electronic, must be maintained in an accessible format.

(4) Students shall be entered and withdrawn from the district roll as follows:

(a) A student shall be entered on the district active roll on the first day of the student's actual attendance. A student with an excused absence of less than ten school days at the beginning of the school year may be counted in membership prior to the first day of attendance if the status has been verified by contact with the parent or guardian. A student participating in the program of more than one instructional unit shall be entered on the active roll of that instructional unit in which 50 percent or more of the student's time is scheduled and the student shall not be entered on the roll of other instructional units;

(b) A student whose withdrawal status can be determined within ten school days of their first day of absence shall be marked as a withdrawal on the school day following that determination. A student must be withdrawn from the active roll on the day following the tenth consecutive full school day of absence but may be retained on the inactive roll at the district's option. A student must be present for at least one-half day in order to restart the count of consecutive days' absence. Under no circumstances shall a student who is absent for the first ten days at the beginning of the school year be counted in membership prior to the first day of school attendance. A student whose attendance is reported as hours of instruction must be withdrawn from the active roll on the day following the tenth consecutive day of absence from the program in which they are enrolled. A student must be present for at least one hour of instruction in order to restart the count of consecutive days' absence. A student who is enrolled in dual programs and reported as both days present/days absent and hours of instruction must be withdrawn according to the instructional unit in which fifty percent or more of the student's time is scheduled. Under no circumstance shall a student who is absent for the first ten days at the beginning of the school year be counted in membership prior to the first day of school attendance.

(c) Notwithstanding anything else in this rule, if a state of emergency is declared pursuant to ORS 401.165 et. seq., and all public schools are closed by order of the Governor, then subsection (4)(b) of this rule is suspended for school districts, public charter schools, and Oregon School for the Deaf for the period of closure or until the suspension is removed by order of the Governor or Director of the Oregon Department of Education. This provision does

not apply to the Juvenile Detention Education Program or the Youth Corrections Education Program.

(5) Membership and attendance accounting in instructional units scheduled to operate a full school day shall be recorded as follows:

(a) A full-time equivalency (FTE) for each student on the active roll shall be determined. Students participating in more than one-half of the full-day program shall be given an FTE of 1.0. Students participating in one-half or less of the full-day program shall be given an FTE of .5. The FTE computation of students placed in community college programs by the local school district shall include time spent in the community college program:

(A) Districts shall determine the FTE for kindergarten students based on whether the district provides a full-day kindergarten program or half-day kindergarten program as follows:

(i) For students in full-day kindergarten programs, districts shall give students 1.0 FTE for students participating in more than one-half of the full-day kindergarten program. Districts shall assign an FTE of 0.5 for students participating in one-half or less of the full-day kindergarten program;

(ii) Students in half-day kindergarten programs shall be assigned an FTE of 1.0. The Department shall proportionally reduce the total days membership of these students reflecting the permissible percentage as stated in statute;

(B) Students participating in district supervised work-study programs may be credited as 1.0 FTE. If a student is released for work during school hours and the district assumes no supervisory responsibility for the time involved, that time shall not be counted as participation in the full-day program when determining the student's FTE.

(b) Membership of each student for the period shall be computed as follows: student FTE times days present plus student FTE times days absent equals total days membership of the student. The day upon which a student is marked as a withdrawal shall not be counted as a day of membership. A student not scheduled to attend daily shall be marked present or absent only on the days the student is scheduled to attend;

(c) Total days membership of the instructional unit shall be the total of days membership of all students on the active roll of the instructional unit as computed in subsection (b) of this section. The computation of total days membership of the instructional unit shall yield subtotals indicating grade placement and resident/nonresident status of student membership;

(d) The Department shall compute the ADM and ADA of resident students, nonresident students, and attending students for each instructional unit reporting and derive totals of such data for each local school district in the state, subject to the following procedures:

(A) ADM is the total days membership of an instructional unit during a specific reporting period divided by the number of days the instructional unit was in session during that reporting period. The ADM of groups of instructional units having varying lengths of terms shall be the sum of the ADMs obtained for the individual instructional units. If a district school board adopts a class schedule that operates throughout the year under the provisions of ORS 336.012 for all or any instructional units in the district, the computation shall be made so that the resulting ADM will not be higher or lower than if the local board had not adopted such a schedule;

(B) ADA is the total days attendance of an instructional unit during a specific reporting period divided by the number of days the instructional unit was in session during that reporting period. The ADA of groups of instructional units having varying lengths of terms shall be the sum of the ADAs obtained for the individual instructional units. If a district school board adopts a class schedule that operates throughout the year under the provisions of ORS 336.012 for all or any instructional units in the district, the computation shall be made so that the resulting ADA will not be higher or lower than if the local board had not adopted such a schedule.

(6) Students enrolled in programs operating less than the full school day and nonpublic school students attending public schools part time shall be accounted for as follows:

(a) The ADM of students enrolled in schools under provisions of ORS 336.135 and students enrolled in nonpublic schools or taught by private teacher or parent under ORS 339.035 shall be computed by multiplying total hours of instruction given all students during the reporting period by .167 and dividing the product by 73 for the July 1 to December 31 cumulative report and by 175 for the June 30 annual report;

(b) The ADM of students receiving tutorial instruction provided by licensed district staff shall be computed by dividing total number of hours of tutorial instruction given (not to exceed 5 hours per week for a single student) by 73 for the July 1 to December 31 cumulative report and by 175 for the June 30 annual report;

(c) The computation of ADM for each less than full-time program listed shall yield subtotals for resident and nonresident students;

(d) The ADM of students enrolled in less than full-time programs shall be reported to the Department for the period ending December 31 and for the year ending June 30.

(e) No more than five day's membership may be claimed for any student enrolled in any combination of programs during a one-week period.

(f) The Department will proportionally reduce the ADM of kindergarteners enrolled in half-day programs to reflect the permissible percentage as stated in statute.

(7) A student enrolled in a public school district and receiving instruction in the district's comprehensive planned K-12 curriculum consistent with OAR 581-022-1210 and who is

individually placed by the school district in an alternative education program under ORS 336.635 shall be accounted for as follows:

(a) The ADM of students enrolled in alternative programs scheduled to operate a full school day may be computed either on the basis of membership (section (5) of this rule) or on the basis of actual attendance (section (7)(b) of this rule);

(b) Equivalent ADM of students enrolled in alternative programs scheduled to operate less than full time shall be computed as follows:

(A) Equivalent ADM of students enrolled in large group instruction shall be computed by multiplying total hours of instruction given all students during the reporting period by a factor of .167 and dividing the product by 73 for the July 1 to December 31 period cumulative report and by 175 for the June 30 annual report;

(B) Equivalent ADM of students enrolled in intermediate group instruction shall be computed by multiplying the total hours of instruction given all students during the reporting period by a factor of .222 and dividing the product by 73 for the July 1 to December 31 period cumulative report and by 175 for the June 30 annual report;

(C) Equivalent ADM of students enrolled in small group instruction shall be computed by multiplying the total hours of instruction by a factor of .333 and dividing the product by 73 for the July 1 to December 31 period cumulative report and by 175 for the June 30 annual report;

(D) Equivalent ADM of students receiving individual instruction shall be computed by multiplying the total number of hours of tutorial instruction given by a factor of 1.0 and dividing the product by 73 for the July 1 to December 31 period cumulative report and by 175 for the June 30 annual report;

(E) Case management services (not limited to student contact) may be counted as large group instruction and constitute up to ten percent of equivalent ADM if specifically authorized by contract with the resident school district;

(F) Documented time in supervised work experience programs, supervised community service activities and supervised independent study, if performed as a part of the instructional programs designed to fulfill the student's educational goals, may be counted as large group instruction;

(G) Over any 20-day period, no more than 20 equivalent membership days may be claimed for any student receiving a combination of instructional services under paragraph (7)(b)(A), (B), (C) or (D) of this rule. Equivalent membership days for any student is equal to the hours of instruction given multiplied by the factor appropriate for the size of the instructional group.

(c) Students attending alternative programs part day and attending the home high school part day shall be reported by the home high school only, taking account of the total time spent in the alternative program and the home high school when determining FTE under section (5) of this rule;

(d) Students attending private alternative programs only, shall not be reported by the instructional unit placing the student for purposes of reporting membership or attendance.

(8) Each private alternative program shall:

(a) Maintain accounting records of student attendance, size of group attended, resident school district and such other student information as may be required by the contracting school district for each student attending the private alternative program;

(b) Report student name, dates served and hours served by group size to resident school district no less than twice yearly, once for the July 1 through December 31 period and an annual report ten days after the close of the school year; and

(c) Retain student attendance records for a period of no less than two years.

(9) Students in the following programs are not eligible to be counted in the resident average daily membership for purposes of ORS 327.013(7)(a):

(a) Students enrolled in special education programs under ORS 343.261, 343.961, and 346.010.

(b) Children enrolled in early intervention and early childhood special education programs under ORS 343.533;

(c) Students not receiving a free public education;

(d) Students in summer school programs;

(e) Students in adult education classes.

(10) Rules governing the reporting of students identified as dropouts are contained in the most recent edition of the Oregon Dropout Reporting Manual, published by the Oregon Department Education. The State Board of Education adopts the procedures in this publication to govern the reporting of dropouts by school districts.

(11) For the purposes of dropout reporting, the following shall apply:

(a) A student is considered enrolled when the student is present at school and attends more than half of a school day;

(b) Acceptable alternative programs are those programs providing activities meeting OAR 581-023-0008 and provided by public school districts, ESDs, community colleges or private alternative programs registered with the Oregon Department of Education under OAR 581-021-0072;

(c) An absence, explained or unexplained becomes a withdrawal after an absence of 10 consecutive days. A student must be present for at least one-half day in order to restart the count of consecutive days absence;

(d) Standards for excused absences must be developed by local districts. Policies shall clearly define excused and unexcused absences and ensure the health and safety of the child. Parents shall be informed of the policies at enrollment. Policy should address the documentation required.

(12) The Superintendent shall prescribe the applicable student accounting procedures for any programs or specific situations not covered by the provisions of this rule.

Statutory/Other Authority: ORS 326.310 & 327.125

Statutes/Other Implemented: ORS 327