

Draft v 2_RAC 1/21/2020 with Track Changes

Division 14

STANDARDS FOR STATE AND LOCAL PUBLIC HEALTH AUTHORITIES

333-014-0510

Definitions

As used in OAR chapter 333, division 14:

(1) "Accountability metrics" means the public health system performance measures established by the Public Health Advisory Board under ORS 431.123.

(2) "Authority" means the Oregon Health Authority.

(3) "Base funds" means state funds appropriated by the Legislature to the Authority and distributed to local public health authorities through the funding formula established in ORS 431.380(1)(a) for applying the foundational capabilities and implementing the foundational programs.

(4) "Enforcement" means an action taken to compel the requirements of the law.

(5) "Financial assistance agreement" or (FAA) means the contract entered into between the Authority and a local public health authority through which base funds and other funds are distributed to local public health authorities and which details the work a local public health authority is required to perform in consideration of those funds.

(6) "Foundational capability" has the meaning given that term in ORS 431.003 and includes each capability established under ORS 431.131.

(7) "Foundational program" has the meaning given that term in ORS 431.003 and includes but is not limited to each program established under ORS 431.141.

(8) "Governing body of a local public health authority" has the meaning given that term in ORS 431.003.

(9) "Local public health administrator" has the meaning given that term in ORS 431.003.

(10) "Local public health authority" has the meaning given that term in ORS 431.003.

(11) "Person" has the meaning given that term in ORS 174.100.

(12) "Public Health Advisory Board (PHAB)" means the body established under ORS 431.122 for the purpose of advising and making recommendations to the Authority and the Oregon Health Policy Board.

(13) "Public health law" has the meaning given that term in ORS 431A.005.

Statutory/Other Authority: ORS 413.042 & 431.149

Statutes/Other Implemented: ORS 431.001 - 431.550

History:

PH 31-2017, adopt filed 12/22/2017, effective 01/01/2018

333-014-0520

Local Public Health Administrators

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(1) An individual appointed by a local public health authority to be the local public health administrator should have the following qualifications:

(a) A bachelor's degree; and

(b) Public health work experience and education that demonstrates competencies in the foundational programs as defined by ORS 431.141 and foundational capabilities as defined by ORS 431.131.

(2) Upon appointment of a local public health administrator a local public health authority must provide notice of the appointment to the Authority along with a copy of the administrator's resume or curriculum vitae.

(3) A local public health authority shall employ, full-time, a local public health administrator unless the Authority approves a local public health authority's request to permit the administrator to work less than full time. To seek approval for a less than full-time local public health administrator the governing body of a local public health authority must submit, in writing, a request for approval to the State Public Health Director with the following information:

(a) The number of hours per week the local public health authority intends the administrator to work; and

(b) How the administrator, if working less than full-time, can fulfill the requirements in ORS 431.418(3).

(4) The Authority will inform the local public health authority in writing whether the request to have a less than full-time administrator is approved or denied and the decision will be based on whether the Authority determines that the administrator can fulfill the requirements in ORS 431.418(3) working less than full-time.

Statutory/Other Authority: ORS 431.149

Statutes/Other Implemented: ORS 431.170 & 431.418

History:

PH 31-2017, adopt filed 12/22/2017, effective 01/01/2018

333-014-0530

Incentives and Matching Funds

(1) To the extent funds, above the base funds, are available, the Authority will make incentive and matching funds available to a local public health authority in accordance with ORS 431.380(1)(b) and (c).

(2) Incentive funds may be awarded based on data that show achievement of benchmarks or improvement targets for accountability metrics.

(3) Matching funds may be awarded to a local public health authority that invests in local public health activities and services above the base funding.

(4) The Authority will review the accountability metrics data and local public health expenditures data submitted in accordance with OAR 333-014-0540 when making decisions regarding the award of incentives or matching funds. The data will be used to determine if the benchmarks, as recommended by PHAB, in the accountability metrics have been achieved, and the extent to which a local public health authority has invested in local public health activities and services.

(5) Based on the information provided pursuant to section (4) of this rule, if funding is available, the Authority will include any incentives or matching funds in the FAA or other agreements.

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Statutory/Other Authority: ORS 431.149

Statutes/Other Implemented: ORS 431.170 & 431.418

History:

PH 31-2017, adopt filed 12/22/2017, effective 01/01/2018

333-014-0540

Accountability Metrics

(1) The Authority will consult with the PHAB as necessary to identify, update and apply accountability metrics related to the distribution of incentive and matching funds.

(2) Local public health authorities will be consulted through the Conference of Local Health Officials (CLHO) on:

(a) Proposed changes to accountability metrics; and

(b) On the time, form and manner for reporting actual expenditure data and accountability metrics data to the Authority.

(3) Local public health authorities will be notified of changes and updates to the accountability metrics when finalized by the PHAB.

(4) Local public health authorities are required to report actual expenditure data and accountability metrics data if the primary data available to report is by the local public health authority, annually in a time, form and manner prescribed by the Authority, with consultation by the Conference of Local Health Officials, once the accountability metrics are finalized.

Statutory/Other Authority: ORS 431.149

Statutes/Other Implemented: ORS 431.380

History:

PH 31-2017, adopt filed 12/22/2017, effective 01/01/2018

333-014-0550

Local Public Health Authority Statutory Responsibilities

(1) The following are activities that Oregon law specifically requires a local public health authority to perform:

(a) Accepting reports of reportable disease, disease outbreak or epidemics and investigating reportable diseases, disease outbreaks, or epidemics under ORS 433.004 and 433.006.

(b) Issuing or petitioning for isolation and quarantine orders under ORS 433.121 to 433.142 as necessary to protect the public's health.

(c) Review of immunization records and issuing exclusion orders under ORS 433.267.

(d) Making immunizations available under ORS 433.269.

(e) Duties and activities related to enforcing the Indoor Clean Air Act under ORS 433.875, if delegated by the Authority.

(f) Ensuring access to family planning and birth control services under ORS 435.205.

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- (g) Licensure of tourist accommodations, including hostels, picnic parks, recreation parks and organizational camps under ORS 446.310 to 446.350, if delegated by the Authority.
- (h) Licensure of pools and spas under ORS 448.005 to 448.100, if delegated by the Authority.
- (i) Restaurant licensure, including commissaries, mobile units, vending machines and bed and breakfasts under ORS 624.310 to 624.430, if delegated by the Authority.
- (j) Regulation of public water systems under ORS 448.115 to 448.285, if delegated by the Authority.
- (k) Enforcement of public health laws under ORS 431.150.
- (l) The duties specified in ORS 431.413.

(2) Nothing in this rule is intended to prohibit a local public health authority from contracting with a person to perform a public health service or activity, or to perform all public health services and activities that the local public health authority is required to perform under ORS 431.001 to 431.550 and 431.990, or under any other public health law of this state, in accordance with OAR 333-014-0560, except that the person with whom the local public health authority contracts may not perform any function, duty or power of the local public health authority related to governance, as that is described in OAR 333-014-0580.

Statutory/Other Authority: ORS 431.141

Statutes/Other Implemented: ORS 431.141 - 431.145

History:

PH 31-2017, adopt filed 12/22/2017, effective 01/01/2018

333-014-0560

Foundational Capabilities and Programs; Prioritization

- (1) To the extent that funding is available, a local public health authority should implement the local foundational capabilities and the local foundational programs described as the local roles and deliverables in the Public Health Modernization Manual, available on the Authority's website at: http://www.oregon.gov/oha/PH/ABOUT/TASKFORCE/Documents/public_health_modernization_manual.pdf.
- (2) The FAA, or other agreements, will describe more specifically the duties and activities that are to be performed in order to carry out the local foundational programs and foundational capabilities.
- (3) The Authority will consult with PHAB, as necessary, on priorities for foundational programs in ORS 431.141 and foundational capabilities in ORS 431.131.

Statutory/Other Authority: ORS 431.149

Statutes/Other Implemented: ORS 431.380 & 431.413

History:

PH 31-2017, adopt filed 12/22/2017, effective 01/01/2018

333-014-0570

Local Public Health Authority Contracts or Agreements for Local Public Health Services or Activities

- (1) As provided in ORS 431.413(3), a local public health authority may contract with a person to perform a public health service or activity, or to perform all public health services and activities, that the local public health authority is required to perform under ORS 431.001 to 431.550 and 431.990 or under any other

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public health law of this state, except that the person with whom the local public health authority contracts may not perform any function, duty or power of the local public health authority related to governance.

(2) A local public health authority must provide written notice to the Authority at least 75 days prior to executing a new contract or agreement with a person or public body for the provision of local public health services or activities, if the local public health authority is performing the public health service or activity pursuant to a contract or agreement with the Authority, unless the local public health authority is specifically exempted from complying with this notice provision in the contract or agreement with the Authority. Contracts, subcontracts or agreements that apply to administrative contracts or contracts that do not have a direct impact on consumers of public health services or activities are excluded from the requirements in this section.

(3) Upon receipt of a notice under section (2) of this rule, the Authority may request a copy of the contract or agreement from the local public health authority for review.

(4) A local public health authority contract or intergovernmental agreement to perform a public health service or activity must clearly describe the service or activity being performed, any applicable federal or state statutes or rules, or local ordinances that are applicable to the service or activity, and the manner in which the local public health authority will oversee and monitor the contractor or public body to ensure compliance with all applicable federal or state statutes or rules, local ordinances or other funding requirements as outlined in the FAA or other agreements.

(5) If a local public health authority is unable, for reasons outside of its control, to provide the 75 day notice as required by section (2) of this rule, the local public health authority shall provide notice as soon as possible before or after the execution of the contract or agreement.

(6) The 75 day notice required in section (2) of this rule does not apply to a contract if the procurement activities began prior to January 1, 2018.

Statutory/Other Authority: ORS 431.149

Statutes/Other Implemented: ORS 431.413

History:

PH 31-2017, adopt filed 12/22/2017, effective 01/01/2018

333-014-0580

Local Public Health Authority Governance

As provided in ORS 431.413(3) and ORS 190.110, a local public health authority may contract or enter into an agreement with an entity to perform public health services or activities but that entity may not perform any function, duty or power of the local public health authority related to governance. Functions, duties and powers related to governance include but are not limited to:

(1) The exercise of any police power.

(2) Any duty of the governing body of a local public health authority under ORS 431.415.

(3) Enforcement of public health laws, including but not limited to taking an action on a license or permit as described in ORS 431.150.

(4) Ensuring due process for persons with due process rights.

(5) Issuing any order authorized under ORS 431A.010 or ORS chapter 433.

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- (6) Imposing civil penalties.
- (7) Compelling the production of records during a disease outbreak investigation.
- (8) Petitioning the court for an isolation or quarantine order under ORS 433.121 to 433.142.
- (9) Taking any action authorized during a declared public health emergency under ORS 433.441.

Statutory/Other Authority: ORS 431.149

Statutes/Other Implemented: ORS 431.413

History:

PH 31-2017, adopt filed 12/22/2017, effective 01/01/2018

333-014-0590

Request to Transfer Local Public Health Authority

(1) If the Authority does not receive state monies in an amount that equals or exceeds the estimate that the Authority submitted to the Legislative Fiscal Office under ORS 431.380(2), the governing body of a local public health authority may adopt an ordinance **or resolution** transferring to the Authority the responsibility for fulfilling the local public health authority's duties under ORS 431.001 to 431.550 and 431.990 and the other public health laws of this state. The ordinance **or resolution** must specify the disparity in moneys received as described in this section.

(2) An ordinance **or resolution** adopted under section (1) of this rule must transfer all local public health authority duties under ORS 431.001 to 431.550 and 431.990 and under other public health laws of this state.

(3) Within two business days from the date the ordinance **or resolution** was adopted under section (1) of this rule, the local public health authority must inform the state Public Health Director in writing and provide a copy of the ordinance.

(4) The transfer of duties from a local public health authority to the Authority takes effect no sooner than 180 days after the date the ordinance **or resolution** was adopted.

(5) A local public health authority must continue to comply, until the date of transfer, with any contract or agreement it has with the Authority that concerns any of the services or activities required by a local public health authority under these rules or under any other public health law of this state including but not limited to the FAA, or other agreements, unless:

(a) The Authority authorizes a termination of a contract or agreement at an earlier date; or

(b) The contract or agreement is terminated in accordance with the terms of the contract or agreement.

(6) The local public health authority must provide notice to the Authority, in accordance with the termination provisions of any contract or agreement for local public health services or activities prior to the final transfer of responsibility from the local public health authority to the Authority.

(7) The governing body of a local public health authority that has previously transferred local public health authority responsibilities to the Authority may submit a written request requesting the responsibilities be transferred back to the local public health authority. The request must:

(a) Include a copy of a formal action by the governing body authorizing that the request to transfer authority back to the local public health authority be made.

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(b) Include the reason or reasons the request is being made.

(c) If the requesting jurisdiction is asking for a transfer of local public health authority responsibilities back from the Authority sooner than four years from the date the responsibilities were transferred to the Authority:

(A) An explanation of what has changed in the requesting jurisdiction with regard to the ability to provide local public health services from the time the decision was made to transfer local public health responsibilities back to the Authority, to the present, and how the community will benefit from the responsibilities being transferred back earlier than four years from the original transfer.

(B) A financing plan for fulfilling local public health authority responsibilities described in OAR 333-014-0550.

(C) A staffing plan for fulfilling local public health authority responsibilities, including any contracts that are likely to be executed to support the fulfillment of local public health authority responsibilities.

(D) If known, information about who will be appointed the local public health administrator and if the local public health authority will be requesting approval for a part-time local public health administrator under OAR 333-014-0520.

(E) The location or locations where public health services will be provided by the requesting jurisdiction and hours of operation.

(8) Upon receipt of a request under section (7) of this rule, the Authority may request additional information from the requesting jurisdiction as necessary to clarify the request.

(9) If the Authority receives a request from a requesting jurisdiction to transfer authority back sooner than four years from the date the responsibilities were transferred to the Authority, the Authority will consider the request and provide the requesting jurisdiction with a determination, in writing, whether it agrees to enter into an agreement under section (10) of this rule. The Authority may deny a request under this section if it determines that the requesting jurisdiction does not have the ability to provide local public health services, even with monies provided under ORS 431.380.

(10) The Authority and the governing body of the requesting jurisdiction will enter into a written agreement that includes but is not limited to:

(a) A schedule to effectuate the transfer of responsibilities to the local public health authority, including a schedule for entering into an intergovernmental agreement between the Authority and jurisdiction for public health funding.

(b) A plan for communicating with residents of the jurisdiction, health care providers and other organizations identified by the Authority or the requesting jurisdiction that the authority is being transferred back to the requesting jurisdiction.

(c) A transfer of any physical equipment or files from the Authority to the requesting jurisdiction.

(11) Upon execution of the agreement described in section (10) of this rule by both parties the governing body of the requesting jurisdiction must take the actions necessary to repeal the ordinance or resolution adopted under ORS 431.382(1).

(12) Nothing in OAR 333-014-0590 is intended to require the Authority to provide funding to the local public health authority at the same level that had been previously provided to the local public health

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authority prior to the transfer **of responsibilities to the Authority**, nor terminate any contract or agreement that is in place for the provision of local public health services or activities within the local public health authority's jurisdiction before the agreed upon term of the contract or agreement.

Statutory/Other Authority: ORS 413.042 & 431.149

Statutes/Other Implemented: ORS 431.382

History:

PH 31-2017, adopt filed 12/22/2017, effective 01/01/2018