

# Proposed COVID-19 Temporary Rule and TSPC Resolution

August 3, 2020

## Temporary Rule

**584-200-0100**

### **Waiver of Licensure Requirements by the Commission**

(3) In recognition of the extraordinary nature of the COVID-19 pandemic and its attendant strains and demands on educators and school districts, the Oregon Teacher Standards and Practices Commission adopts this temporary administrative rule allowing a teacher holding a Preliminary, Professional, Teacher Leader or Legacy Teaching License, or a Preliminary CTE or Professional CTE Teaching license to teach in an out-of-field subject-matter endorsement area for which the teacher is not otherwise authorized during the 2020-2021 school year, generally between July 1, 2020 through June 30, 2021.

(a) In accordance with ORS 342.173, the Executive Director may waive the requirements for teaching licenses and endorsements and the LCA requirements of OAR 540-210-0160 if an Oregon school district requests mis-assignment for an educator that is not otherwise authorized. A district requesting approval for mis-assignment under this temporary rule, as a condition of approval, shall:

- (A) Provide support to the educator in the new assignment area through a Primary Support Provider or Professional Learning Community lead.
- (B) The support provided shall include ongoing guidance and assistance on subject content and best practices in instructional delivery in the new assignment area from educator(s) endorsed or sufficiently experienced in classroom instruction in the new assignment area.
- (C) The support provided shall not be at any expense to the educator.

(b) To request the waiver, the district will submit a report of teachers mis-assigned due to the COVID-19 pandemic by October 31, 2020 or, for assignment occurring after October 31, within two weeks of the beginning of the assignment. The report shall be in the form and manner required by the Commission and will include:

- (A) Assigned grade level(s) and endorsement area.
- (B) "Out of field" courses to be assigned.
- (C) Name of the Primary Support Provider or a Professional Learning Community lead for this teacher.

(c) The Executive Director or designee will evaluate all evidence and make the determination on the waiver. It is solely within the discretion of the Executive Director or designee to grant waivers under this subsection.

*Note: The Commission has adopted conditions the Executive Director will apply in determining whether there is satisfactory justification for mis-assignment under this rule (Commission Resolution 2020-8.01). Districts seeking waivers are to assure that these conditions are adhered to.*

(d) The Commission will monitor any waivers granted under this subsection and will receive reports on such waivers from the Executive Director.

(e) The Executive Director will maintain a list of all educators for whom waivers under this section have been granted. This list will be available for the public to view upon request in the time and manner determined by the Executive Director.

(f) An educator who is mis-assigned in accordance with this temporary rule is not required to complete academic requirements in pedagogy or subject content in the area of mis-assignment and will not be charged any license fees related to the mis-assignment.

(A) The educator will continue to be required to complete continuing professional development appropriate to their licensure, per OAR 584-255-0010.

(g) As permitted by ORS 342.173, the Commission may impose upon a school district or education service district a sanction not to exceed \$3,000 for each occurrence of:

- (A) Commission determination an educator was mis-assigned without obtaining TSPC waiver authorization through the methods defined by this rule, or
- (B) Commission determination that an educator was mis-assigned without justification satisfactory to the Commission, or in a manner which fails to meet the requirements defined by this rule; or
- (C) Commission determination that a school district or education service district has assigned an educator in a manner not otherwise permitted by ORS 342.173(2), ORS 342.173(3), and ORS 342.173(4).

## **TSPC Resolution**

*Whereas* the TSPC believes that every student shall be provided instruction by a qualified educator;

*Whereas* the TSPC highly values the particular skills of licensed educators and the ability for these educators to guide students toward academic and vocational success;

*Whereas* the COVID-19 pandemic increases pressure on school districts to staff classes with fewer teachers available and fewer institutional resources;

*Whereas* the TSPC also recognizes the Governor's Executive Order 20-29, which provides that: "Public school employees shall fulfill duties as may be assigned by their public school employers, consistent with the provisions of this Executive Order and guidance from ODE and OHA."

*Whereas* the response to the COVID-19 pandemic requires extraordinary flexibility in teacher assignments;

*Whereas* "mis-assignment" shall be defined as a teacher teaching in an out-of-field subject-matter endorsement area or serve in another license area for which the teacher is not otherwise authorized;

*Whereas* the Oregon Teacher Standards and Practices Commission has promulgated Temporary Administrative Rule 584-200-0100 to allow a school or educational service district to mis-assign a teacher;

*Whereas* the intent of the Commission is not to penalize individual educators or school administrators for the mis-assignment of teachers;

Therefore **BE IT RESOLVED** that:

- (1) Educators and administrators shall not be subject to sanctions under ORS 342.173 and OAR 584-050-0030 and 584-050-0035 for mis-assignment under the temporary administrative rule 584-200-0100(3) of 2020.
- (2) In accordance with ORS 342.173, the mis-assignment shall be considered satisfactory to the Commission if:
  - It is for a specific instructional assignment for which the district does not have appropriately licensed personnel on the school's staff and available to be placed in position;
  - The district has not been able to fill the assignment with an appropriately qualified volunteer;
  - The district has assigned a teacher to the extent possible and after due consideration to the experience of the teacher in the subject area or grade level as appropriate for the mis-assignment under the Temporary Assignment Guidance Document promulgated by the Executive Director;
  - The teacher is not subject to a Restricted License;
  - The teacher is relieved of the mis-assignment by the 2021-22 school year or has been granted a Restricted Teaching License or License for Conditional Assignment; and
  - Except as otherwise required by statute, rule, or district collective bargaining agreement, the performance of the teacher as it relates to content knowledge and instructional methodology specific to the area of mis-assignment will not be considered as part of the routine performance evaluation of the teacher.
- (3) Complaints of misapplication of the temporary rule will be reviewed under OAR 584-020-0000.