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Comments on the proposed rules	The Department's response
<p>(1) Revise subsection 4(b) of proposed OAR 581-017-0432 (Definitions) to include “education service districts” within the definition of “school district.”</p>	<p>Education service districts are not among the eligible grant recipients identified in Oregon Laws 2015, chapter 840, section 13 (Enrolled SB 501). For purposes of Oregon’s school laws, they are not among the entities included within the definition of “school district.” ORS 330.005(2).</p>
<p>(2) Revise proposed OAR 581-017-0435 (Purpose) to provide that the grant’s purpose is to provide “effective” food-based, agriculture-based, or garden-based educational activities, and define “effective Farm to School and School Garden education programs” as including</p> <ul style="list-style-type: none">“(a) hands-on experiences with healthy food items;“(b) repeated contact with each student; and“(c) Outdoor and/or off-site experiences in gardens, on farm field trips, or in visits to other food-industry sites. This can be part of a larger program that also involves in-class instruction but it cannot be omitted.” <p>[A similar change was suggested for subsection 5(e) of proposed OAR 581-017-0441.]</p>	<p>The rulemaking committee convened by the department discussed a similar proposal, but was unable to reach an agreement on whether the proposal should be included in the draft rules. Some members, while agreeing with the intent behind the proposal, expressed their concern that the proposed definition was too narrow and would limit the types of educational activities eligible applicants could propose.</p> <p>The department will address these types of in-depth and detailed requirements and expectations in its request for applications.</p>
<p>(3) Revise proposed OAR 581-017-0435 (Purpose) to include a preference for “effective Farm to School and School Garden education programs” that “allow children to grow and harvest foods...”</p>	<p>The rulemaking committee discussed a similar proposal but did not reach consensus.</p> <p>The department will address these types of in-depth and detailed requirements and expectations in its request for applications.</p>
<p>(4) Revise proposed OAR 581-017-0435 (Purpose) to provide that grant recipients can only use their awards to provide “education and promotional activities for foods that qualify for the procurement portion of Oregon’s [noncompetitive] Farm to School grants.”</p>	<p>The proposed language would create a requirement that has no basis in Oregon Laws 2015, chapter 840, section 13 (Enrolled SB 501). The rulemaking committee discussed a similar requirement but did not reach agreement. . The suggested change would prevent schools from including foods that weren’t locally produced or processed in a grant funded educational activity, or paying staff costs incurred visiting a local farm located in Washington or Idaho.</p>

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<p>(5) Revise subsection 1 of proposed OAR 581-017-0435 (Purpose) to provide that “all educational activities funded by these grants must promote, feature or educate about Oregon agricultural products, except fluid milk.”</p>	<p>The proposed language would create a requirement that has no basis in Oregon Laws 2015, chapter 840, section 13 (Enrolled SB 501), and was not considered by the rulemaking committee. It would also unnecessarily limit the types of educational activities eligible for grant funds.</p>
<p>(6) Revise subsection 4(a) of proposed OAR 581-017-0441 (Application process and criteria) to read as either “The name of the school district(s) in which the educational activities will be offered,” or “The name of the school district or districts in which the educational activities will be offered.”</p>	<p>Although the rulemaking committee’s proposals focused on grants funding educational activities occurring in one district, the proposed rules would allow districts to partner with each other to offer, or allow a nonprofit organization or commodity commission or council to propose, educational activities benefiting students in more than one district.</p> <p>The department will include instructions for applicants proposing eligible activities that would occur in multiple districts in its request for applications.</p>
<p>(7) Revise subsection 4(c) and (d) of proposed OAR 581-017-0441 (Application process and criteria) to require that grant applicants partnering with other organizations provide “an attached letter or specific commitment from partnering schools and/or districts, or proof of successful past partnerships with schools and districts to do the type of work that is proposed in the grant application.”</p>	<p>Grant applicants may not have a firm commitment from a potential partner until after they’ve completed their planning and development work, which is eligible for grant funding.</p> <p>The department will address these types of in-depth and detailed requirements and expectations in its request for applications.</p>
<p>(8) Revise subsection 4(h) of proposed OAR 581-017-0441 (Application process and criteria) to eliminate a requirement that grant applicants include “an analysis of the proposed educational activities and the proposed means of delivering those programs using the Equity Lens adopted under OAR 581-017-0010” in their grant proposals, and replace it with a requirement that the department include, as part of the grant application, “questions about the demographics of the target audience and equity impacts of the proposed program.”</p>	<p>The department’s Equity Lens involves substantially more than simply collecting demographic data and inquiring about general equity impacts, and the specific reference to the Equity Lens and its requirements provides more guidance for grant applicants and recipients than vague language about undefined “equity impacts.”</p> <p>The department will incorporate equity language into the request for applications that will go into more detail about what grant applicants and recipients will need to establish or consider.</p>

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<p>(9) Maintain the reference to the department’s Equity Lens in subsection 4(h) of proposed OAR 581-017-0441 (Application process and criteria).</p>	<p>Staff retained the reference to the Equity Lens and OAR 581-017-0010 in the proposed rule.</p>
<p>(10) Replace requirement that grant applicants include “an analysis of the proposed educational activities and the proposed means of delivering those programs using the Equity Lens adopted under OAR 581-017-0010” in their grant proposals to include “a specific rule or section for the grantee to adopt...[rather] than sifting through the entirety of the OAR.”</p>	<p>This issue is already addressed in the proposed rules, which include a citation to the rule in which the Equity Lens can be found and require that grant applicants assess their proposed educational activities “and the proposed means of delivering those programs using the Equity Lens adopted under OAR 581-017-0010.”</p>
<p>(11) Revise subsection 5 of proposed OAR 581-017-0441 (Application process and criteria) to:</p> <ul style="list-style-type: none">(a) Provide that “Preference will be given to applications that propose educational activities that are: ...”, rather than “Educational activities proposed by grant applicants must: ...”	<p>The proposed language is drawn from Oregon Laws 2015, chapter 840, section 13 (Enrolled SB 501), however the rulemaking committee determined that all grant applicants should address these six areas in their applications. Commenters were also supportive, but wanted more detail regarding what constituted a healthy food activity or an educational activity’s connection to a district’s farm-to-school procurement activities. The rulemaking committee could not reach agreement on what activities should be included, or on the appropriate level of detail. The department will address these types of in-depth and detailed requirements and expectations in its request for applications.</p>
<p>(12) Revise subsection 5 of proposed OAR 581-017-0441 (Application process and criteria) to:</p> <ul style="list-style-type: none">(b) Replace requirement that proposed educational activities “have clear educational objectives mapped to applicable state standards,” with requirement that proposed activities “have clear educational objectives.”	<p>The rulemaking committee initially proposed connecting the educational objectives to “Common Core and/or Next Generation standards,” and then broadened that to include other educational objectives and standards, including those regarding nutrition, food safety, agriculture, healthy eating, and occupational training. Rather than attempt to address each individual objective or standard proposed by the committee, staff used the current language as a broad catchall to ensure proposed educational activities were mapped to whatever state standards might apply.</p>

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	<p>The department will address these types of in-depth and detailed requirements and expectations in its request for applications.</p>
<p>(13) Revise subsection 5 of proposed OAR 581-017-0441 (Application process and criteria) to: (c) Replace requirement that proposed educational activities “involve parents, the local community, nutrition services staff, teachers, or school administrators,” with requirement that proposed activities “involve parents and the community.”</p>	<p>The rulemaking committee discussed ways in which parents and the local community could be involved in developing a proposed educational activity, and ways in which nutrition services staff and teachers would be accountable for providing well-designed educational activities. Staff determined that the proposed rules’ language addresses the broader issue of ensuring that the necessary parties are involved in developing the proposed educational activity while allowing the department to address more direct involvement as envisioned by the committee through a request for applications. (i.e., parent participation in field trips, a communications and media strategy, and developing community support for farm-to-school and school garden programs generally)</p>
<p>(14) Revise subsection 5 of proposed OAR 581-017-0441 (Application process and criteria) to: (d) Include a new requirement that proposed educational activities “show demonstrated commitment by staff, teachers, or school administrators.”</p>	<p>The rulemaking committee discussed this proposal, but was unable to reach consensus on what actions would demonstrate the commitment of staff, teachers, or school administrators. The proposed rules address this issue by requiring that grant applicants involve parents, the local community, nutrition services staff, teachers, or school administrators in their proposed educational activities.</p>
<p>(15) Revise subsection 7 of proposed OAR 581-017-0441 (Application process and criteria), which currently reads as “recipients of a competitive Oregon Farm to School Program grant will represent a variety of school sizes and geographic locations, and schools that serve a high percentage of children who qualify for free or reduced price school meals under the United States Department of Agriculture’s National School Lunch Program,” and replace</p>	<p>Staff have broken the sentence into two paragraphs as suggested by the commenters.</p>

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<p>it with: “The department must ensure that recipients of grants under this subsection: “(a) represent a variety of school sizes and geographic locations; and “(b) serve a high percentage of children who qualify for free or reduced price school meals under the United States Department of Agriculture’s National School Lunch Program.”</p>	
<p>(16) Revise subsection 5 of proposed OAR 581-017-0444 (Awarding and using competitive Oregon Farm to School Program grants) to reduce the maximum grant award amount from \$100,000 to \$75,000.</p>	<p>The rulemaking committee discussed an appropriate amount for a maximum grant award and agreed upon \$100,000.</p>
<p>(17) Revise subsection 6(a) of proposed OAR 581-017-0444 to increase the maximum amount of its grant award a grant recipient can spend on administrative and personnel costs.</p>	<p>The suggested change is based on a misreading of the proposed rule. Subsection 6(a) of proposed OAR 581-017-0444 caps the amount of grant funds that can be spent on “administrative costs, including administrative labor and supplies” at 10%; however, it does not place a cap on other types of personnel costs that are directly related to providing eligible educational activities, such as a school garden coordinator’s time providing instruction, or a teacher’s time spent supervising children attending an educational activity at a dairy farm.</p>
<p>(18) Add a new section to the proposed rules clarifying whether grant recipients could use grant funds to “pay for the salary of a garden coordinator/educator.”</p>	<p>This issue is already addressed in the proposed rules; grant recipients may use their grant awards for direct costs associated with an eligible educational activity.</p>
<p>(19) Revise subsection 6(b) of proposed OAR 581-017-0444 (Awarding and using competitive Oregon Farm to School Program grants), which provides that grant recipients may use up to ten percent of their grant award for costs associated with developing and implementing” their proposed educational activities, to eliminate allowance for implementation costs.</p>	<p>Staff have revised the wording of proposed OAR 581-017-0444(6)(b) to address commenters’ concerns about implementation costs. It now provides that grant recipients may use up to ten percent of their total grant award for costs associated with planning and developing their eligible educational activities.</p>

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<p>(20) Revise subsection 7 of proposed OAR 581-017-0444 (Awarding and using competitive Oregon Farm to School Program grants) to include a requirement that the department “does all they can to ensure that [grant] funds are spend [<i>sic</i>] intended activities, and don’t just go back into the ODE budget at the end of the biennium if not spent.”</p>	<p>Subsections 1 and 2 of the proposed OAR 581-017-0447 already provide that the department will publish performance measures as part of a request for applications and establish a reporting requirement for grant recipients. This broader requirement would increase the department’s administrative duties and expenses while providing little measurable benefit to either the department or the grant recipients.</p>
<p>(21) Revise subsection 8 of proposed OAR 581-017-0444 (Awarding and using competitive Oregon Farm to School Program grants) so that instead of making a grant award in two phases, there will be two grants applicants can apply for: an implementation grant and a planning-to-implementation grant.</p> <p>Add a new paragraph (a) to subsection 8 establishing that up to 10% of an awarded implementation grant may be used for program development and the remainder may be used for implementation.</p> <p>Revise subsection 8 to include a new paragraph (b) providing that planning-to-implementation grant awards disbursed in the first phase may not exceed forty percent of the total amount of the grant award and are for planning and payments disbursed in the second phase are for implementation.</p> <p>Revise subsection 8 to include a new paragraph (c) providing that both an implementation grant and a planning-to-implementation grant have two distribution phases: one for activities offered during March to June of 2016, and the other for activities offered during August or September of 2016 through July of 2017.</p>	<p>The rulemaking committee discussed establishing two different types of grants: one to cover an applicant’s planning costs and another to cover an applicant’s implementation costs.</p> <p>To reduce the department’s administrative costs and burdens, staff deleted subsection 8 of proposed OAR 581-017-0444 and proposed rules establishing one type of grant, allowing grant recipients to use grant funds for both planning and implementation costs, and capping planning and development costs at 10% of the total grant award.</p> <p>The proposed rules do not limit the number of grant awards that can be made in a biennium.</p> <p>The department will address these types of in-depth and detailed requirements and expectations in its request for applications.</p>

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<p>(22) Revise subsection 8(a) of proposed OAR 581-017-0444 (Awarding and using competitive Oregon Farm to School Program grants), which provides that grant recipients may use up to forty percent of their grant award for planning, so that the only planning costs that are eligible are those incurred for continuation planning.</p>	<p>The rulemaking committee agreed that grant recipients should be allowed to charge a portion of their planning and development costs to their grant awards. This change would disfavor applicants which do not already have an eligible educational program in place, or the capacity to absorb the costs of planning and developing one.</p>
<p>(23) Revise subsection 9 of proposed OAR 581-017-0444 (Awarding and using competitive Oregon Farm to School Program grants) to eliminate requirement that grant recipients either deposit their awards in a separate account or assign them a separate account or index number.</p>	<p>This was proposed by the rulemaking committee, and is recommended or required when receiving other state or federal food program funds, because it reduces the potential for comingling grant funds with other funds, avoids misuse and waste, and ensures accountability.</p>
<p>(24) Either delete subsection 10 of proposed OAR 581-017-0444 (Awarding and using competitive Oregon Farm to School Program grants) which provides that “grant recipients may not charge indirect costs to their grant awards” entirely, or replace it with a provision allowing recipients to spend up to 10% of their grant award on indirect costs for program development.</p>	<p>The rulemaking committee supported a prohibition on the use of grant awards to pay indirect costs, which furthers the program’s goals by focusing grant dollars on activities directly related to providing food-based, agriculture-based, or garden-based educational activities. It’s also recommended or required when receiving other state or federal food program funds.</p>
<p>(25) Revise subsection 2 of proposed OAR 581-017-0447 (Performance measures and reporting), which provides, in part, that “to receive the final disbursement of grant funds, grant recipients must submit both a completed interim and final grant report to the department,” to include one of two suggested limitations on the disbursement of “implementation funds”</p> <ul style="list-style-type: none">“(a) Ten or twenty percent of a grant recipient’s implementation funds will be withheld until the recipient submits a final report to the department; or“(b) One hundred percent of a grant recipient’s implementation funds “must be disbursed at the beginning of the implementation phase.”	<p>The rulemaking committee supported a reporting requirement, but did not address or reach agreement on these two proposals. Proposed OAR 581-017-0447(2) presently provides that grant recipients must submit an interim and final grant report to the department before receiving the final distribution of grant funds. The exact amount that would be withheld can be more appropriately addressed in a request for applications.</p> <p>The suggested change to paragraph (b) is more accurately framed as revision of proposed OAR 581-017-0444(8), which provided that grant awards would be disbursed in two phases. Staff responded to this suggestion by deleting OAR 581-017-0444(8).</p>

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	The department will address whether or not a grant award will be disbursed in one or more disbursements in its request for applications.
(26) Revise subsection 2 of proposed OAR 581-017-0447 (Performance measures and reporting) to delete a requirement that the department provide grant recipients with a template for interim and final grant reports, and replace it with a requirement that the department provide grant recipients with a template for grant reports, as well as delete a requirement that grant recipients must submit completed interim and final grant reports to receive the final distribution of their grant awards, and replace it with a requirement that grant recipients submit final grant reports to the department.	<p>The rulemaking committee supported a reporting requirement, but did not address or reach agreement on these two proposals.</p> <p>It will be difficult to ensure a grant recipient's compliance with the reporting requirement if there is no possible penalty for not submitting a report, such as by eliminating the proposed rule's condition that grant recipients must submit their reports before they can receive the final distribution of their grant awards.</p>

Staff also made three changes to correct drafting errors

1. Staff revised the definition of "including" in subsection 2 of proposed OAR 581-017-0432 from "means including but limited to," to read as "means including but **not** limited to."
2. Staff revised paragraph (a) of proposed OAR 581-017-0441(4) to add "the" before "school district." The sentence now reads as "The name of **the** school district in which the educational activities will be offered."
3. Staff revised paragraph (b) of proposed OAR 581-017-0441(4) to add "the" before "person." The sentence now reads as "The name of **the** person who will serve as the grant applicant's primary contact regarding the grant proposal and that person's contact information, including the primary contact's email address and telephone number."