

Oregon Department of Education

Administrative Rules Annual Report

HB 4106 (2016 Session)

Report contains rules filed during calendar year January 01, 2020 and December 31, 2020

Rules Adopted, Amended, or Repealed [ORS 183.335(2) and (3)]

Adopted	60
Amended	43
Repealed	0

Temporary Rules Adopted, Amended, or Suspended [ORS 183.335(5)]

Adopted	20
Amended	14
Suspended	0

ODE 4-2020

Filed: 03/20/2020 11:02 AM

581-021-0072

Amend

Statement of Need

School closures across the State due to the COVID-19 outbreak have disrupted many operations, among them is the annual application process for private alternative schools and programs. With the current application deadline of March 31, many private alternative education programs would not be able to submit a completed application and therefore not considered for approval for the 2020-2021 school year. Part of the registration application requires an evaluation of the private alternative education program from districts wanting to contract with the program; the closure of schools coupled with school districts focus on responding to the COVID-19 outbreak hinders the ability of private alternative education programs to submit a completed application by the deadline set in rule.

Justification

School closures across the State due to the COVID-19 outbreak have disrupted many operations, among them is the annual application process for private alternative schools and programs. With the current application deadline of March 31, many private alternative education programs would not be able to submit a completed application and therefore not considered for approval for the 2020-2021 school year. Part of the registration application requires an evaluation of the private alternative education program from districts wanting to contract with the program; the closure of schools coupled with school districts focus on responding to the COVID-19 outbreak hinders the ability of private alternative education programs to submit a completed application by the deadline set in rule.

ODE 9-2020

Filed: 03/20/2020 3:26 PM

581-020-0600

Amend

581-020-0601

Adopt

581-020-0606

Amend

581-020-0626

Adopt

Statement of Need

The Department of Education regularly reviews grant programs and administrative rules to ensure compliance with State law. The Department determined that there was a need to adopt rules clearly stating that the Department has authority to administer grants rising out of the Statewide English Learner Plan. The rules are being adopted as temporary rules because this is an existing grant program, so changes are being made to the substance or process of the program, and there is a need to get the grant money to the field as quickly as possible.

Justification

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ODE 14-2020

Filed: 04/23/2020 9:32 AM

581-053-0009

Adopt

Statement of Need

The impacts of the COVID-19 disease on commercial driver programs associated with schools, including those employing school bus drivers and school activity vehicles, include excessive difficulty in satisfying the requirements for ODE-issued credentials. This temporary ruleset proposes to allow an extension of expired medical certificates, first aid training, and specific classroom training hours required under our certificate programs.

Justification

The impacts of the COVID-19 disease on commercial driver programs associated with schools, including those employing school bus drivers and school activity vehicles, include excessive difficulty in satisfying the requirements for ODE-issued credentials. This temporary ruleset proposes to allow an extension of expired medical certificates, first aid training, and specific classroom training hours required under our certificate programs. Stakeholders in the field have given notice that the typically simple tasks of completing a physical examination by a certified medical examiner, attending a first aid classes, or attending other required classes have been made more complex or impossible given the governor's executive order requiring physical distancing and concerns about public health/exposure. In light of similar concessions made by the United States Department of Transportation and Oregon's Driver & Motor Vehicle Services to offer leniency around existing but expired credentials, ODE worked to craft a temporary ruleset that would allow for driver programs facing the aforementioned hardships to extend the validity of ODE-issued credentials that expire during the declared state of emergency and school closure.

ODE 16-2020

Filed: 04/23/2020 9:40 AM

581-027-0020

Amend

Statement of Need

The current COVID-19 pandemic has created unforeseen complications for districts attempting to pass a bond in the May 2020 election. This temporary rule allows the OSCIM Program flexibility to help those districts shift when they hold their election. This will help mitigate the effects of the declared state of emergency.

Justification

COVID-19 and the attendant public health crisis has created problems for the OSCIM Program and districts that have commitments from the program for the upcoming May election. It has prevented districts from reaching out to their

communities to inform them of work that will be done with potential bond funds. It has limited or even prevented supporters of the bond from going door to door to engage fellow voters on these important issues.

In addition, the necessary social distancing and shuttering of businesses has caused economic harm and uncertainty in communities. This means that communities that were already fragile in terms of high poverty and low property wealth are now in even worse shape because of COVID-19. It makes the difficult task of passing a bond, which the OSCIM Program was to alleviate, even more difficult. This is a situation that is beyond the control of districts. It is also a situation that the State Board of Education can exercise its discretion to help remedy.

The current OSCIM Program rules and framework do not allow the program flexibility to respond to emergencies such as the present COVID-19 pandemic. Under the current rules, the OSCIM Program will require districts to hold bond elections in election cycles where it is clear that the emergency is directly impacting a district's ability to provide information to voters and supporters to support the bond. This is counter to the goal of the program, which is to encourage investment in local school facilities.

The proposed temporary rule allows the OSCIM Program flexibility to respond to these types of emergencies. Once a state of emergency is declared by the Governor, ODE must first determine whether districts in the OSCIM Program will be negatively impacted by the emergency. As in the case with the upcoming May election, the Department will reach out to districts to see how they are addressing the emergency. Once that is determined, the proposed rule does the following: allows ODE to change application deadlines if needed; allows districts to withdraw from an election and move any funding commitment or wait list position to the next election, and keeps each election separate to avoid burdening districts applying for the next election.

ODE 19-2020	Filed: 04/23/2020 3:04 PM
581-002-0035	Amend
581-015-2045	Amend
581-016-0710	Amend
581-021-0584	Amend
581-022-0103	Adopt
581-023-0006	Amend

Statement of Need

Temporary administrative rules to implement guidance issued pursuant to Executive Order 20-08.

Justification

On March 17, Governor Brown issued Executive Order 20-08 (E.O. 20-08). That order physically closed all public schools through April 28 but required school districts to continue operating and:

1. Continue delivering supplemental education and learning supports to students to the extent practical through independent study and other appropriate options.
2. Provide school meals in non-congregate settings through the Summer Food Service Program and Seamless Summer Option, consistent with requirements provided by the Oregon Department of Education and the U.S. Department of Agriculture. Transportation grant funds from the State School Fund may be used by public schools for delivery of meals in non-congregate settings to eligible school sites using school district transportation services.
3. Provide for supplemental services and emergency management services, including but not limited to, the provision of child care for first responders, emergency workers, health care professionals, and other individuals, consistent with any guidance and requirements provided by the Oregon Department of Education. Public schools may use transportation grant funds from the State School Fund for school district transportation services to support the transportation of children to and from school-based child care.

4. Develop plans for the operation of essential, non-educational services, including food services, to students and families.
5. Continue to regularly pay all employees of public schools. A public school subject to this Executive Order may require school employees to report to work to assist with the provision of supplemental services and emergency management activities.

E.O. 20-08 directs the Department to provide further guidance to public schools regarding the above directives. The order also directs the State Board of Education, in collaboration with the Department, to “engage in any temporary rulemaking necessary to facilitate the directives in [E.O. 20-08], and the ability of public schools to respond to the ongoing emergency.” On April 8, Governor Brown announced that our students will not return to school this academic year.

ODE 24-2020 **Filed: 05/28/2020 9:59 AM**

581-022-2130 Amend

Statement of Need

ORS 329.485 requires the Department of Education to implement a statewide assessment system for all students. This temporary rule will suspend the assessment for kindergarten students which will be applied to the 2020-21 school year..

Justification

ORS 329.485 requires the Department of Education to implement a statewide assessment system for all students. This temporary rule will suspend the assessment for kindergarten students which will be applied to the 2020-21 school year due to the Executive Order 20-20 (E.O. 20-20) issued by Governor Brown. If the rule were not amended, the kindergarten assessment will need to be administered in the fall to all kindergarten students. E.O. 20-20 directs the Department to provide further guidance to public schools regarding the above directives. The order also directs the State Board of Education, in collaboration with the Department, to “engage in any temporary rulemaking necessary to facilitate the directives in [E.O. 20-20], and the ability of public schools to respond to the ongoing emergency.”

ODE 25-2020 **Filed: 05/28/2020 2:45 PM**

581-017-0693 Adopt

581-017-0696 Adopt

581-017-0699 Adopt

581-017-0702 Adopt

581-017-0705 Adopt

581-017-0708 Adopt

Statement of Need

ORS 329.845 requires the Department to create a statewide student success plan for Latino/a/x students, including a grant program to implement the strategies outlined in the plan. In order to implement the grant program, the State Board of Education adopted these temporary administrative rules to guide the implementation of the grant program.

Justification

ORS 329.845 requires the Department to create a statewide student success plan for Latino/a/x students, including a grant program to implement the strategies outlined in the plan. In order to implement the grant program, the State Board of Education adopted these temporary administrative rules to guide the implementation of the grant program. Due to the COVID-19 pandemic, the crisis has created conditions where Latino/a/x families are experiencing disproportionate impacts due to measures taken to limit the spread of this disease. The pandemic has exacerbated and widened existing inequities faced by Latino/a/x families who are not able to access the resources needed to meet their children's educational, social, emotional, and sometimes, their nutritional needs. These rules would provide funding to support Latino/a/x students and families struggling with school closures and subsequent distance learning measures. The rules create the structure to award SSA grant funding to address the disproportionate results in education due to historical practices faced by Latino/a/x students.

ODE 27-2020

Filed: 06/23/2020 1:58 PM

581-021-0026

Amend

Statement of Need

ORS 339.035 directs children taught by parent, legal guardian, or private teacher to be examined at grades 3, 5, 8 and 10. This temporary rule provides an extension of the deadline date by which children will need to be examined due to the COVID-19 pandemic.

Justification

ORS 339.035 directs children taught by parent, legal guardian, or private teacher to be examined at grades 3, 5, 8 and 10. This temporary rule provides an extension of the deadline date by which children will need to be examined due to the COVID-19 pandemic. Moreover, in response to the COVID-19, Governor Brown's Executive Orders cancelled all State standardized testing for the year, however, home school testing is still going forward. In order to allow families the time and opportunity for safe testing, the temporary rule extends the August 15 deadline for this year only. This rule change would allow home schooling families flexibility to wait to complete testing until it is safe to have people in their home, or have their children test at another person's home.

ODE 28-2020

Filed: 06/23/2020 2:27 PM

581-017-0675

Adopt

581-017-0678

Adopt

581-017-0681

Adopt

581-017-0684

Adopt

581-017-0687

Adopt

581-017-0690

Adopt

Statement of Need

ORS 329.843 directs the Department of Education to develop and implement a statewide education plan for students enrolled in early childhood through post-secondary education who are American Indian or Alaskan Native and have experienced disproportionate results in education due to historical practices. The Department is further directed to, in consultation with the advisory group, award grants to early learning hubs, providers of early learning services, school districts, education service districts, post-secondary institutions of education, tribal governments and community-based organizations to implement the strategies provided in the plan. The proposed rules implement that grant program.

Justification

The Department of Education is proposing an adoption of temporary rules so that the Department may move forward with the American Indian/Alaska Native Student Success grants. These temporary rules will allow the Department to begin receiving applications and awarding of grant money to eligible entities and organizations. The Department is proposing adoption of these temporary rules to implement the program in accordance with ORS 329.843

ODE 36-2020

Filed: 09/18/2020 8:26 AM

581-022-2312

Adopt

Statement of Need

The Department recognizes that student health and safety are the cornerstone of education and that all students are entitled to a high-quality educational experience, free from discrimination or harassment based on perceived race, color, religion, gender identity, sexual orientation, disability, or national origin, and without fear or hatred, racism or violence. All staff and leaders are also entitled to work in environments that are free from discrimination or harassment, and visitors should be able to participate in school activities without fear for their safety. The proposed rule is an important step in creating safe and inclusive school climates where all who participate in our school communities feel welcome.

Justification

In July 2020, an Oregon high school student sent a letter to Governor Kate Brown asking for help. In the letter, the student stressed the importance of banning the Confederate flag in Oregon public schools. In response, Governor Brown wrote to the State Board of Education, urging members "to take immediate action to address and correct the adverse impacts symbols of hate and other manifestations of hate speech have on students in Oregon public schools." The presence of symbols of hate on the basis of race, color, religion, gender identity, sexual orientation, disability or national origin causes harm, and significantly disrupts the operation of schools. Oregon's students who are Black, Indigenous, People of Color, members of Tribal communities and Tribes, and members of LGBTQ2SIA+ communities are known to be disproportionately targeted by acts of bias and hate. Failure to take immediate rulemaking action allows the presence of a swastika, noose, or confederate flag, as well as any bias incidents, to be handled by school districts, public charter schools, and education service districts under currently existing policies and procedures; there would be no uniform statewide standard for addressing these incidents. Incidents of bias and racism contribute to the myriad educational inequities that students who are Black, Indigenous, People of Color, members of Tribal communities and Tribes, and members of LGBTQ2SIA+ communities face on a continuous basis. A statewide ban of these symbols is necessary to ensure that all of Oregon's students and staff can participate in, and fully benefit from, their educational experience.

ODE 37-2020

Filed: 09/18/2020 9:19 AM

581-014-0001

Amend

Statement of Need

The proposed temporary rule changes the existing definition of "spring membership" for Student Investment Account in light of COVID and limited data collection this spring. The State Board of Education in prior adopted rules defined "spring membership" as students attending public schools on the first day in May, as derived from the 3rd period cumulative average daily membership report. However, due to COVID-19 there is not a 3rd period cumulative average daily membership report for the spring of 2020. These rules are being recommended now in order to address a change in the technical definition of Spring Membership for the Spring of 2020 as necessitated by COVID-19.

Justification

This temporary rule changes the definition of spring membership to reflect how Spring Membership for 2020 was calculated as it ultimately impacts charter school eligibility for SIA grant funding for the next application cycle. The department would not be able to determine charter school eligibility because the spring membership as defined in current rules would not be available to make such determination if in failure to take immediate rulemaking action. These temporary rules will allow charter school eligibility to be determined using the Spring Membership calculation from Spring 2020.

ODE 38-2020	Filed: 09/18/2020 10:01 AM
581-022-0104	Adopt
581-023-0006	Amend
581-023-0040	Amend

Statement of Need

On June 24, 2020, Governor Brown issued Executive Order 20-29. The order directs the Oregon Department of Education and the Oregon Health Authority to publish guidance relating to the conduct of in-person instructional activities at public schools and private schools. The order also directs the State Board of Education, in collaboration with the Department, to “engage in any temporary rulemaking necessary to facilitate the directives in [E.O. 20-29], and the ability of public schools to respond to the ongoing emergency.”

Justification

With Executive Order 20-29, Governor Brown ordered the Oregon Department of Education and the Oregon Health Authority to publish guidance relating to the conduct of in-person instructional activities at public schools and private schools. Failure to adopt temporary rules in accordance with the E.O. will delay the implementation of the Ready School, Safe Learners guidance. Failure to immediately take rulemaking action would negatively impact school districts and public charter schools in providing instruction and school based services. These proposed rules will give the Department the necessary authority to fully implement the Ready School, Safe Learners guidance and provide needed flexibility to school districts and public charter schools in comprehensive distance learning.

ODE 39-2020	Filed: 10/01/2020 8:25 AM
581-014-0006	Adopt

Statement of Need

The temporary rule set provides clarity on the application requirements for the 2020-21 school year only in response to House Bill 4304. The rule set provides more detail on what is required for applicants who have and have not yet met the original application requirements in ORS 327.185 as well as what is required for applicants seeking to make plan and/or budget amendments given the reduction in funding and/or the changing needs of their communities.

Justification

In response to COVID-19 in August 2020 the legislature passed House Bill 4304, which removed the requirement that grant recipients meet longitudinal performance growth targets as originally outlined in House Bill 3427. House Bill 4304 also provided the flexibility for the department to modify or waive certain requirements for amended SIA Grant Applications and Agreements. Failure to take rulemaking action would require applicants wishing to amend their plan and/or budget to go through the entire application, resubmitting all requirements outlined in ORS 327.185, including all of those applicants who have previously met requirements. Additionally, it would not be explicit that the longitudinal performance growth targets will not be included in an amended grant agreement.

ODE 44-2020

Filed: 11/02/2020 2:39 PM

581-027-0055

Adopt

Statement of Need

ORS 326.125 established the Office of School Facilities which is responsible for the Hardship Grant. These proposed temporary rules administer the distribution of funds to school districts under the Hardship Grant.

Justification

School districts have suffered damage from the wildfires that burned across Oregon this summer. Due to the smoke and evacuations and other results of the natural disaster, school districts are going to need resources to clean up and help their communities rebuild after the losses. If state funds become available, those funds will need to be distributed to districts. Temporarily adopting these Hardship Grant Program rules will be able to accept any funds available and start awarding grants. If these rules are not adopted, then the Hardship Grant will not be able to distribute funds that may become available.