

## **Board Action Summary**

### **AGENDA ITEM: Preschool Promise Rules Update**

#### **Summary of Recommended Board Action**

**ACTION:** No Action – First Reading of Preschool Promise draft Administrative Rules

**ISSUE:** The Early Learning Division is currently engaged in work to implement the Preschool Promise program enacted by the Legislature in 2015. Part of implementation will include promulgation of Oregon Administrative Rules to govern the program.

The purpose of the rules is to define key terms, describe eligibility criteria, and to assist Hubs and preschool providers in the implementation and operation of Preschool Promise program services. The rules describe the standards for the establishment and operation of preschool services under the Preschool Promise program.

The Rules Advisory Committee considered a number of policy areas related to the program and is advancing rule language and a summary of the Committee's discussion for consideration by the Council.

This will be the Council's First Reading of the Preschool Promise proposed administrative rules. The Council is scheduled to adopt final administrative rules at its April meeting.

**ACTION PRECEDING RECOMMENDED BOARD ADOPTION:** The Child Care and Education Committee (CCEC), serving as the Council's Rules Advisory Committee, has held a number of discussions regarding policy and administrative rules for the program. In addition, the Council formed an Ad Hoc Advisory Committee to provide input and feedback to Division staff in implementation of the program.

Child Care and Education Committee considered draft rule language at its March 10 meeting and submitted proposed recommended rule language and a summary of the Committee discussion for the Council's consideration.

**BOARD MEMBER PRESENTING REPORT FOR ADOPTION:** Bobbie Webber

**CONTACT:** Kim Parker, Chief of Staff  
Lisa Pinheiro, Policy Specialist

# Preschool Promise

## Rule Review - CCEC Discussion March 10, 2016

Rule Section	Possible/Recommended Language	Explanation	Rules Advisory Committee Summary of discussion
<b>581-019-0036</b>  <b>Purpose</b>	<p>The purpose of these rules is to define key terms, describe eligibility criteria, and to assist Hubs and preschool providers in the implementation and operation of Preschool Promise program services. These rules describe the standards for the establishment and operation of preschool services under the Preschool Promise program.</p>	<p><i>General purpose statement, found in most administrative rules</i></p>	<p>--</p>
<b>581-019-0037</b>  <b>Definitions</b>	<p>The following definitions apply to Oregon Administrative Rules 581-019-0036 through 581-019-0049.</p> <p>“Child Care provider” means a person or entity that provides care, supervision, and guidance on a regular basis of a child, unaccompanied by a parent, guardian, or custodian, during a part of the 24 hours of the day,</p>	<p><i>Specifies that the following definitions apply ONLY to the preschool program rules.</i></p>	

	<p>with or without compensation.</p> <p>“Division” means the Early Learning Division of the Department of Education.</p> <p>“Early Learning Hub” or “Hub” means an entity designated under ORS 417.827 and contracted by the Early Learning Council to coordinate, fund and monitor early learning services in a specific region within the state.</p> <p>“Quality Rating and Improvement System” means the system established through ORS 329A.261 which establishes a set of progressively higher standards used to evaluate the quality of an early learning and development program and to support program improvement.</p> <p>“Preschool” means those programs which provide <del>comprehensive</del> health, education, <del>and</del> social <u>and other comprehensive</u> services in order to maximize the potential of</p>		<p>Discussion occurred if there should be a definition of “preschool” in rule.</p> <p>One member believed the definition sets the context.</p> <p>Some committee members had concerns about the ability of some preschools to provide comprehensive health services.</p>
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	<p>three- and four-year-old children.</p> <p>“Preschool Promise” means the preschool program administered by the Early Learning Division as directed under ORS 329.172.</p> <p>“Preschool Provider” means an eligible participant contracted by the Early Learning Hub to provide preschool services under the Preschool Promise program.</p>		<p>For some providers it may be a reach to meet that expectation.</p> <p>After discussion of intent, the language was revised to reflect that “comprehensive” modifies “other services” and not just “health.”</p>
<p><b>581-019-0038</b></p> <p><b>Child and Family Eligibility Criteria</b></p>	<p><u>Early Learning Hubs are responsible for ensuring that child eligibility will be has been verified by the provider using an eligibility determination form provided by the Division.</u></p> <p>Family income is at or below 200 percent of the Federal Poverty Level in effect at the time eligibility is determined.</p> <p>Children must be at least three years of age on or before September 1 of their entrance year and</p>	<p><i>Meaning the FPL in existence at the time of enrollment.</i></p> <p><i>State Board of Education establishes instructional hours for Kindergarten by rule.</i></p>	<p>Some committee members wondered whether proposed language would limit the ability for the Hub to create a centralized determination process among the providers in their region.</p> <p>Language revised to clarify, and to accommodate both situations where either the Hub or the provider is conducting the actual verification</p> <p>The committee voiced their expectation that the Hub will be responsible for ensuring eligibility is determined appropriately.</p>

	not eligible for kindergarten as determined by the State Board of Education by rule.		
<b>581-019-0039</b> <b>Hub Selection Process; Fund disbursement</b>	<p>Hubs will be selected through the public procurement process as provided in ORS Chapter 279A and 279B.</p> <p>Funding for Preschool Promise Program will be directed through Early Learning Hubs and allocated through a process determined by the Early Learning Council.</p>	<p><i>Oregon public procurement laws (Oregon Contracting code).</i></p> <p><i>Consistent with legislation</i></p>	<p>The Committee discussed the process for fund disbursement at all levels of the disbursement process, e.g., from ELD to Hub to Provider.</p>
<b>581-019-0040</b> <b>Use of Funds by Hubs</b>	<p>Funds received by the Hub for the Preschool Promise Program may be used only in support of the program and provide funding to preschool providers for the purposes of administering the Preschool Promise program.</p> <p>Of the funds distributed, the Early Learning Division may establish a maximum percentage allowable for administrative overhead and a maximum percentage allowable for building provider capacity to meet Preschool</p>	<p><i>To stipulate the Preschool Promise funding, provided by the legislature is to be used only for Preschool Promise program activities.</i></p> <p><i>X % allowable for Administrative Costs</i> <i>X% allowable for Provider capacity building.</i></p>	<p>While the intent of the language is to stipulate that Preschool Promise funding, provided by the legislature, is to be used only for Preschool Promise program activities, the Committee raised concerns that there may not be an appropriate level of specificity in rule language with regard to the use of Preschool Promise funds by ELD.</p> <p>After discussion it was concluded that the draft rule language does not impact the ability of the Division to conduct its administrative duties.</p>

	<p>Promise program standards.</p> <p>Hubs must have established appropriate internal fiscal controls and generally accepted accounting procedures to ensure the proper disbursement, separation of funding source, as appropriate, and accounting for all funds provided.</p>	<p><i>To ensure proper accounting and separation of funds as required by law</i></p>	
<p><b>581-019-0041</b></p> <p><b>Eligibility Criteria for Promise Program Providers</b></p>	<p>The following entities shall be eligible for funding:</p> <ul style="list-style-type: none"> <li>A Head Start program;</li> <li>An Oregon Prekindergarten program ;</li> <li>A child care provider;</li> <li>A relief nursery, as defined in Oregon Administrative Rule.</li> <li>A private preschool;</li> <li>A public school;</li> <li>A public charter school;</li> <li>An education service district, or;</li> <li>A community-based organization.</li> </ul>	<p><i>Restates legislation, and further defines some of the eligible providers.</i></p>	
<p><b>581-019-0042</b></p> <p><b>Provider / Hub Contracts</b></p>	<p>Prior to enrolling a child under the program, a preschool provider shall enter into a contract with the Hub. The contract shall include, but is not limited to, the following provisions:</p>	<p><i>trying to balance the need to articulate what ELD expects in a Hub/Provider contract while recognizing they will be sub-contracting the services.</i></p>	<p>Some committee members called out whether the rules should require certain contract terms/requirements to reflect a provider’s financial and fiscal capacity.</p> <p>The Committee further discussed that provider eligibility will naturally require evidence of fiscal health and financial</p>

	<p>Term of the contract;  Description of services;  Facility and program standards;  Provider responsibilities;  Payment for services; and  Compliance with appropriate state and federal regulations.</p>	<p><i>If not these elements, which elements do we want included in the Hub Provider contract, and, are other elements required?</i></p>	<p>practices; that the different types of providers would have equally different capacities and that those areas would be addressed through the provider selection and contracting process.</p>
<p><b>581-019-0043</b>   <b>Minimum Requirements</b></p>	<p>To be eligible to provide preschool services under the Preschool Promise Program, a preschool provider must:</p> <p>Provide the annual number of instructional hours required for full day kindergarten as determined by the State Board of Education by rule.</p> <p>Meet quality standards, including:</p> <p>Attaining one of the top two ratings of the quality rating and improvement system for early childhood programs.</p> <p>Adopting culturally responsive teaching methods and practices.</p> <p>Providing highly trained lead preschool teachers</p>	<p><i>Restates legislation and elaborates where necessary.</i></p> <p><i>State Board of Education establishes instructional hours for Kindergarten by rule.</i></p>	<p>The Committee discussed whether the legislation relating to the credential of a</p>

	<p>who have at least a bachelor's degree in early childhood education or a field related to early childhood education.</p> <p>The requirements of this subparagraph may be satisfied by lead preschool teachers who do not have a bachelor's degree but who have submitted a plan to attain a bachelor's degree and are demonstrating progress on that plan. The educational plan provided for in this paragraph shall be submitted on a form and in a manner provided by the Division.</p> <p>Providing lead preschool teachers with a salary that meets the minimum salary requirements established by the Early Learning Council.</p> <p>Providing at least one assistant teacher in each classroom who provides support for academic instruction and who meets the state's personnel qualification requirements of one of the top two tiers for the quality rating and improvement system.</p>		<p>Bachelor's degree is so explicit that it precludes the ability of the Division and/or Council to consider another credential, such as Step 10 on the Oregon Step Registry, as equivalent to the BA.</p> <p>Staff is researching this question.</p>
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	Participates in an ongoing monitoring and program evaluation system that is used for continuous program improvement as established by the Division.		
<b>581-019-0044</b>  <b>Minimum Salary requirements for Lead Preschool Teacher</b>	The Early Learning Council shall establish a methodology to determine a target and minimum salary for Lead Preschool Teachers.	<i>Allows the Council to revise the methodology as needed to assure program objectives are met</i>	
<b>581-019-0045</b>  <b>Use of funds by Preschool Provider</b>	<p>Approved providers shall use funds to supplement, not to supplant, public funds from any other source that are used to serve otherwise eligible students, including, but not limited to federal, state or local public funds.</p> <p>Funds may not be used to pay for expenses incurred for children who:</p> <p>Pay tuition for the preschool program and whose family income at the time of enrollment</p>	<p><i>From RFA Q&amp;A: “Approved providers shall use funds to supplement, not to supplant, public funds from any other source that are used to serve otherwise eligible students, including, but not limited to, local funds, or Federal or State Head Start funds.”</i></p> <p><i>Restates legislation</i></p>	

	<p>exceeds 200 percent of federal poverty guidelines in effect at the time of enrollment.</p> <p>Are funded by the Oregon prekindergarten program, a Head Start program or another source of funding.</p>		
<b>581-019-0046</b>	<p>Programs will be monitored and evaluated on program improvement using a system established by the Division.</p>	<i>Conforms with legislation</i>	
<b>Program Monitoring and Evaluation</b>			
<b>581-019-0048</b>	<p>A preschool provider may request a waiver of the requirements of ORS 329.172(4) and 581-019-XXXX.</p> <p>The preschool provider shall make the request to the Hub. The Hub shall submit the <b>provider request</b> to the Early Learning Council <a href="#">[Division]</a> on a form and in a manner provided by the Early Learning Division.</p> <p>The Council <a href="#">[Division]</a> will review all waiver requests.</p> <p>Waivers under this section are allowable for the first years of the</p>	<p><i>Because the provider contracts with the Hub and the Hub is responsible for coordinating the program(s) in their region, the waiver requests will come to the Council through the Hub. Clarifies the Council's role in waiver approval. Restates Legislation, and clarifies the Council's responsibility in "administering" waivers.</i></p> <p><i>A QIP is required to accompany the waiver request to provide evidence of provider's ability to meet the requirement and the timeframe anticipated to do so.</i></p>	
<b>Waiver Application Process</b>			

	<p>program only and are valid for the time period specified by the Council.</p> <p>Waiver requests must be accompanied by a quality improvement plan for approval by the Early Learning Council. The quality improvement plan will provide information including, but not limited to, how the program will meet the requirement for which a waiver is requested and a timeline for completing that plan.</p> <p>The Early Learning Council may withdraw approval of a waiver at any time, if deemed necessary to ensure the health, safety and well-being of children in the program.</p> <p>A waiver granted for any of the requirements does not negate the need for a waiver for other requirements. The granting of waiver shall not set a precedent. Each request shall be evaluated on its own merits.</p>	<p><i>Reserves the right of the Council to assure the health and safety of children. The OCC has this ability when administering “exceptions” in licensing.</i></p> <p><i>Each of the program requirements is separate and distinct from one another.</i></p>	
<p><b>581-019-0049</b></p>	<p>Hubs shall ensure that all information and data that demonstrates that providers are meeting the</p>	<p><i>General reporting. Specific required information can be called out in contract.</i></p>	

<b>Reporting</b>	<p>program requirements are made available to the Division upon request, and in a manner as provided by the Division.</p> <p>Any provider or program staff subject to ORS 419B.005 to 419B.016 having reasonable cause to believe that any child with whom the provider or program staff comes into contact in his or her official capacity has suffered abuse or neglect, shall report or cause a report to be made in the manner required in ORS 419B.005 to 419B.015.</p>	<p><i>Mandatory Reporter Law.</i></p>	
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