



Oregon Administrative Rules - Oregon Department of Education

Early Learning Division

OregonEarlyLearning.com

A public hearing on the proposed rules has been scheduled on January 21, 2020 at 2:00 p.m. All persons wishing to give testimony must sign in no later than 2:15pm.

Public comment will be accepted through January 22, 2020 at 5:00 p.m.

Comments may be emailed to Remy.Watts@ode.state.or.us

December 12, 2019

The Early Learning Council will begin formal rulemaking to adopt permanent administrative rules relating to Oregon Pre-Kindergarten OAR Chapter 414, Division 460, established pursuant to ORS 326.425. These rules are being updated to align with statutory updates required of HB 2025 (2019).

The Early Learning Council will promulgate rules to incorporate changes to Oregon Pre-Kindergarten made by HB 2025 passed by the 2019 Legislature. HB 2025 legislates that the Oregon Pre-Kindergarten program become a prenatal to age five program, provide the ability to offer full day programming, and requires teacher and teacher assistant salary guidelines that are comparable to kindergarten teachers.

The Council is considering the attached draft rule language. Substantive changes to permanent rules will update eligibility criteria and use of grant funds to align with statutory changes.

A public hearing on the rules for re-adoption has been scheduled on January 21, 2020 at 2:00 p.m. All persons wishing to give testimony must sign in no later than 2:15pm.

The public comment period closes on January 22, 2020 at 5:00 p.m. Comments may be emailed to Remy.Watts@ode.state.or.us, or mailed to Remy Watts, Oregon Early Learning Division, 700 Summer Street NE # 350, Salem, OR 97301.

OFFICE OF THE SECRETARY OF STATE
BEV CLARNO
SECRETARY OF STATE

A. RICHARD VIAL
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 414
OREGON DEPARTMENT OF EDUCATION
EARLY LEARNING DIVISION

FILED
12/11/2019 3:29 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: HB 2025 (2019) changes the Oregon Pre-Kindergarten program to prenatal to age five program.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 01/22/2020 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

CONTACT: Remy Watts
503-947-0674
remember.watts@state.or.us

700 Summer Street NE, Suite 350
Salem, OR 97301

Filed By:
Remember Watts
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 01/21/2020

TIME: 2:00 PM - 3:00 PM

OFFICER: Gwyn Bachtle

ADDRESS: Early Learning Division,
Grand Ronde Conference Room (3rd
Floor)

700 Summer Street NE, Suite 350
Salem, OR 97301

SPECIAL INSTRUCTIONS:

Please sign in by 2:15pm if you plan to
submit testimony.

NEED FOR THE RULE(S):

The Early Learning Division (ELD) of the Oregon Department of Education must revise its administrative rules to incorporate changes to the Oregon Pre-Kindergarten made by HB 2025 passed by the 2019 Legislature. HB 2025 legislates that the Oregon Pre-Kindergarten program become a prenatal to age five program, provide the ability to offer full day programming, and requires teacher and teacher assistant salary guidelines that are comparable to kindergarten teachers.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Statutory Authority: Oregon Laws 2019, Chapter 646
(<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB3427/Enrolled>)

FISCAL AND ECONOMIC IMPACT:

As a grant program, organizations that apply and are approved to administer programs through the Oregon Pre-

Kindergarten program will receive state monies to move forward with approved programming. There is no anticipated adverse impact on organizations whose programs are denied funding or do not apply for funding.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(2)(a) There are no impacts to small businesses.

(b) There are no impacts to small businesses.

(c) There are no impacts to small businesses.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The Early Learning Division has reached out to its stakeholders for input on the rules beginning in fall of 2019. The division will post drafts of the administrative rules on its website and seeking comments both in writing and through a public hearing in January.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

Changes made by the 2019 Legislature required the Early Learning Division to update its administrative rules to address some statutory changes. Due to the significant body of work the division has undertaken to implement the Student Success Act and the limited number of policy changes needed in administrative rule, the division did not engage a formal rules advisory committee; however, we have and will continue to engage our stakeholders in the update process until the rules are adopted.

RULES PROPOSED:

414-460-0000, 414-460-0005, 414-460-0010, 414-460-0015, 414-460-0020, 414-460-0025, 414-460-0030, 414-460-0035, 414-460-0040, 414-460-0045, 414-460-0050, 414-460-0055, 414-460-0070

AMEND: 414-460-0000

RULE SUMMARY: Changes reflect implementing HB 2025 (2019) and change in statutory authority of the Early Learning Division.

CHANGES TO RULE:

414-460-0000

Definitions ¶¶

The following definitions apply to Oregon Administrative rules ~~581-0194~~414-460-00100 through ~~581-0194~~414-460-00375.¶¶

- (1) ~~"Advisory Committee" means the Oregon Department of Education advisory committee for the prekindergarten program and the parent education program established by Chapter 684, Oregon Laws 1987.~~¶¶
(2) "Applicant" means a public or private nonsectarian organization ~~which~~that applies for prekindergarten funds.¶¶
(3) "Approved Prekindergarten Programs" means those programs which are recognized by the Department

Division as meeting the minimum program rules to be adopted by the State Board of Education.¶¶

(4) "At-Risk" means a child at least three years of age and not eligible for kindergarten whose family circumstances would qualify that child for eligibility under the federal Head Start Program Early Learning Council.¶¶

(53) "Children with Disabilities" means children who ~~have~~ are of the age served by the prekindergarten program of their residence and who require special education in order to obtain the education of which they are capable, because of mental, physical, emotional, or learning problems. These groups include but are not limited to those categories that have traditionally been designated: intellectually disabled, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired children.¶¶

(6) "Contractor ~~een~~ determined eligible to receive special education services by either Part B or Part C according to IDEA definition 34 CFR Part 300. ¶¶

(4) "Grantee" or "Program" means an applicant which has been awarded state funds under the prekindergarten program, and which has entered into a contract ~~grant~~ with the Department of Education to provide a prekindergarten program. ~~Contractor~~ Grantees may be local public or private organizations which are nonsectarian in their delivery of services.¶¶

(75) "Department" means the Department of Education.¶¶

(86) "Eligible Child" means an at-risk child who is not a participant in a federal, state, or local program providing like comprehensive services and may include children who are ~~Division~~ "Division" means the Early Learning Division of the Oregon Department of Education.¶¶

(7) "Eligible Child" means children prenatal to five years old and not eligible for kindergarten whose family circumstances would qualify that child for eligibility under rules adopted by the State Board of Education ~~the federal Head Start Program.~~¶¶

(98) "Family" means all persons living in the same household who are:¶¶

(a) Supported by the income of the parent(s), caretaker(s) or guardian(s) of the child enrolling in the prekindergarten program; and¶¶

(b) Related to the parent(s), caretaker(s) or guardian(s) by blood, marriage, or adoption.¶¶

(109) "Nonsectarian" means that no aspect of prekindergarten services will include any religious orientation.¶¶

(140) "Prekindergarten" means those programs which provide comprehensive health, education, and social services in order to maximize the potential of ~~three- and four-year-old children~~ children prenatal to five. The "State Prekindergarten Programs" means the statewide administrative activities carried out within the Department of Education ~~Division~~ to allocate, award, and monitor state funds appropriated to create or assist local prekindergarten programs.¶¶

(11) "Federal Head Start program guidelines" means the processes and procedures established by the Head Start Act (42 USC 9801 et. seq.) and Head Start Program Performance Standards (45 CFR Chapter XIII).

Statutory/Other Authority: ORS ~~684326.425(7)~~

Statutes/Other Implemented: ORS ~~329.175, 329.195~~ 6.425(7), ORS 329.170 - 329.200

AMEND: 414-460-0005

RULE SUMMARY: Funds can now be used for prenatal-to-five programs and for updated salary guidelines required by HB 2025.

CHANGES TO RULE:

414-460-0005

Use of Grant Funds by Grantees ¶¶

- (1) A minimum of 2.5 percent of the total grant shall be used for staff development.¶¶
- (2) Start-up costs may be allocated to assist in limited funding of "one-time" costs needed to start new programs, or to add children to existing programs.¶¶
- (3) ~~Contractor~~Grantees shall use grant funds to serve Oregon residents.¶¶
- (4) ~~Contractor~~Grantees must have established appropriate internal fiscal controls and fund accounting procedures to assure the proper disbursement of, and accounting for, all funds provided.¶¶
- (5) The Division shall establish salary guidelines for grantees through a grant agreement. ¶¶
- (a) Salary guidelines shall be comparable to public school lead kindergarten teachers and assistants, to the extent practicable.¶¶
- (b) Salary guidelines may vary by region, experience, education, and program type.¶¶
- (6) Grantees must follow salary guidelines established by the Division.

Statutory/Other Authority: ORS ~~684~~326.425(7)

Statutes/Other Implemented: ORS ~~329.175,0 - 329.195~~200

AMEND: 414-460-0010

RULE SUMMARY: Language updated to reflect updated statute.

CHANGES TO RULE:

414-460-0010

Eligibility Criteria for ~~Contract~~ Applicants ¶

(1) ~~Public or private nonsectarian organizations or consortia of organizations, including school districts and Head Start grantees,~~ Nonsectarian organizations or consortia of organizations, including school districts and Head Start grantees, are eligible to ~~apply~~ compete for funding ~~as as to establish an Oregon prekindergarten program.~~ ¶

(2) No person in any prekindergarten program shall be subjected to discrimination of any kind, including that as defined in ORS 659A.850.

Statutory/Other Authority: ORS ~~684~~329.170 - 329.200

Statutes/Other Implemented: ORS ~~329.175,0 - 329.195~~200

AMEND: 414-460-0015

RULE SUMMARY: Updates authority from Oregon Department of Education to Early Learning Division to reflect changes in statute.

CHANGES TO RULE:

414-460-0015

Proposal Review and ~~Contract Award~~ ¶

(1) Funds shall be awarded on a competitive basis. Subject to available funds, continuation grants shall be awarded on the basis of satisfactory performance. ¶

(2) An applicant must make formal response using forms issued and established by the Department. ¶

~~(3) The advisory committee will review the proposals ivision. ¶~~

(3) Division staff will review grant applications to determine eligibility. ¶

(4) A grantt recommend to the State Superintendent of Public Instruction which proposals should be funded or rejeview committee will be appointed by the Early Learning Systems Director. The Early Learning Council will recommend representatives to the director to be named to the committede. The ¶

(5) The grant review committee maywill review applications and make funding recommend alterations in the proposals. The committee will prioritize the proposals to the extent practicable, regionallyations, which may include a negotiated level of funding, to the director that provide for geographic representation where practicable based on percentages of unmet needs in order to distribute funds as widely as possible throughout the state.. The director will make final decisions for funding. ¶

(46) The final decisions regarding the prekindergarten program proposals will be made by the State Superintendent of Public Instructiondivision will notify grant recipients of awards and announce the awards on its website. ¶

(57) The Department shall notify successful appliedivision will enter into a grants and shall provide to each of them a contract for signature. This contract must be signed by an official with authority to bind the applicant and must be returned to the Department prior to the award of any funds under this programreement with each prospective grant recipient using terms and conditions acceptable to the division. ¶

(8) Grant recipients who have not signed and returned to the division within 90 calendar days of receiving a grant agreement forfeit the awarded grant. This provision does not apply to federally recognized Oregon Indian tribes. ¶

(69) Any applicant not receiving funding may appeal for review to the State Board of EducationEarly Learning Council. Such appeal must be in writing within 15 days of the date of the notice of non_funding.

Statutory/Other Authority: ORS ~~684326.425~~(7)

Statutes/Other Implemented: ORS 329.175, ~~329.190,0~~ - 329.195200

AMEND: 414-460-0020

RULE SUMMARY: Clarifies source of Head Start regulations.

CHANGES TO RULE:

414-460-0020

Program Design ¶¶

- (1) Funds appropriated shall be used to establish and maintain new or expanded prekindergarten programs and shall not be used to supplant federally supported Head Start programs.¶¶
- (2) Programs shall serve the eligible children and provide all components as specified in the federal Head Start Program Performance Standards (U.S. Department of Health and Human Services, Administration for Children, Youth, and Families, 45 CFR 130445 CFR Chapter XIII).¶¶
- (3) Programs shall provide for staff qualifications and training, facilities and equipment, transportation and fiscal management.¶¶
- (4) Programs shall coordinate with each other and with federal Head Start programs to insure efficient delivery of services and prevent overlap.¶¶
- (5) Programs shall provide developmentally appropriate educational services which are consistent with the unique physical, social, emotional, and cognitive needs of young children. Developmentally appropriate programs are both age appropriate and individually appropriate.¶¶
- (6) Requirements for program design shall be based on a model of comprehensive services to participating children. These include educational services, health services (including medical, dental, nutrition, and mental health), parent involvement, and social services to families. Parents shall be given the opportunity to be involved in every aspect of the planning and implementation of services. Specific program requirements are contained in the program requirements publication available from the Department dated January 21, 1988 guidance issued by the Division.

Statutory/Other Authority: ORS ~~684326.425~~(7)

Statutes/Other Implemented: ORS 329.175,0 - 329.195200

AMEND: 414-460-0025

RULE SUMMARY: Clarifies eligibility criteria reflecting changes from HB 2025.

CHANGES TO RULE:

414-460-0025

Eligibility Criteria for Children and Families Served ¶

~~(1) Children must be at least three years old on or before September 1 of their entrance~~The Oregon
prekindergarten program serves children prenatal to five year,s old and not yet eligible for kindergarten.¶

~~(2) At least 80 percent of the children served shall be eligible according to or whose family circumstances would~~
qualify them for eligibility under the federal Head Start fedeProgram regulations at 45 CFR 1305.4.¶

~~(32)~~ No less than ten percent of the total number of enrollment opportunities in the state of Oregon shall be
available for children with disabilities. See 45 CFR 1305.5.¶

~~(43)~~ Up to 20 percent of the children served need not qualify according to Head Start Program regulations.

Statutory/Other Authority: ORS ~~684326.425~~(7)

Statutes/Other Implemented: ORS 329.175, ORS 329.195

AMEND: 414-460-0030

RULE SUMMARY: Rule updated to reflect change in statute.

CHANGES TO RULE:

414-460-0030

Suspected Abuse ¶¶

Any employee of the prekindergarten program having reasonable cause to believe that any child with whom the employee comes into contact in his/her official capacity has suffered abuse or neglect, shall report or cause a report to be made in the manner required in ~~ORS 418.79B.005 through ORS 419B.055~~.

Statutory/Other Authority: ~~ORS 684326.425(7)~~

Statutes/Other Implemented: ~~ORS 329.175,0 - 329.195~~200

REPEAL: 414-460-0035

RULE SUMMARY: Rule is redundant under revised statute and therefore unnecessary.

CHANGES TO RULE:

~~414-460-0035~~

~~Definitions ¶¶~~

~~(1) "Advisory Committee" means the Oregon Department of Education advisory committee for the prekindergarten program and the parent education program established by Chapter 684, Oregon Laws 1987.¶¶~~

~~(2) "Applicant" means a public or private nonsectarian organization which applies for parent education funds.¶¶~~

~~(3) "At-Risk Children" means children between 0 and eight years of age who are assessed by the criteria in OAR 581-019-0075.¶¶~~

~~(4) "Contractor" means an applicant which has been awarded state funds under the parent education program. Contractors may be local public or private organizations which are nonsectarian in their delivery of services.¶¶~~

~~(5) "Department" means the Department of Education.¶¶~~

~~(6) "Eligible Family" means any family with an at-risk child.¶¶~~

~~(7) "Family" means all persons living in the same household who are:¶¶~~

~~(a) Supported by the income of the parent(s), caretaker(s) or guardian(s);¶¶~~

~~(b) Related to the parents(s), caretakers or guardian(s) by blood or marriage or adoption.¶¶~~

~~(8) "Nonsectarian" means that no aspect of parent education program services will include any religious orientation.¶¶~~

~~(9) "Parent Education" means the statewide administrative activities carried out within the Department of Education to allocate, award, and monitor state funds appropriated to assist local parent education programs.~~

~~Statutory/Other Authority: ORS 684~~

~~Statutes/Other Implemented: ORS 329.175, 329.195~~

REPEAL: 414-460-0040

RULE SUMMARY: Rule is redundant under revised statute and therefore unnecessary.

CHANGES TO RULE:

~~414-460-0040~~

~~Use of Grant Funds ¶~~

~~(1) Contractors shall use grant funds to serve Oregon residents. ¶~~

~~(2) Contractors must have established appropriate internal fiscal controls and fund accounting procedures to assure the proper disbursement of, and accounting for, all funds provided.~~

~~Statutory/Other Authority: ORS 684~~

~~Statutes/Other Implemented: ORS 329.175, 329.195~~

REPEAL: 414-460-0045

RULE SUMMARY: Rule is redundant under revised statute and therefore unnecessary.

CHANGES TO RULE:

~~414-460-0045~~

~~Eligibility Criteria For Contract Applicants ¶¶~~

~~(1) Public or nonsectarian organizations or consortia of organizations are eligible to apply for funding as a parent education program.¶¶~~

~~(2) No person in any parent education program shall be subjected to discrimination as defined in ORS 659.150(1).¶¶~~

~~(3) Applicants shall identify targeted groups, outreach methods, program components, and the qualifications of instructional staff.~~

~~Statutory/Other Authority: ORS 684~~

~~Statutes/Other Implemented: ORS 329.175, 329.195~~

REPEAL: 414-460-0050

RULE SUMMARY: Rule is redundant under revised statute and therefore unnecessary.

CHANGES TO RULE:

~~414-460-0050~~

~~Proposal Review and Contract Award ¶¶~~

~~(1) Funds shall be awarded on a competitive basis. Subject to available funds, continuation grants may be awarded on the basis of satisfactory performance.¶¶~~

~~(2) An applicant must make formal response using forms issued and established by the Department.¶¶~~

~~(3) The advisory committee will review the proposals and recommend to the State Superintendent of Public Instruction which proposals should be funded or rejected. The review committee may recommend alterations in the proposals. The committee will prioritize the proposals to the extent practicable, regionally based on percentages of unmet needs in order to distribute funds as widely as possible throughout the state.¶¶~~

~~(4) The final decisions regarding the parent education proposals will be made by the State Superintendent of Public Instruction.¶¶~~

~~(5) The Department shall notify successful applicants and shall provide to each of them a contract for signature. This contract must be signed by an official with authority to bind the applicant and must be returned to the Department prior to the award of any funds under this program.¶¶~~

~~(6) Any applicant not receiving funding may appeal for review to the State Board of Education. Such appeal must be in writing and mailed within 15 days of the date of the notice of nonfunding.¶¶~~

~~(7) Funds appropriated for the program shall be used to establish and maintain new or expanded parent education programs and shall not be used to supplant any existing programs.~~

~~Statutory/Other Authority: ORS 684~~

~~Statutes/Other Implemented: ORS 329.175, 329.190, 329.195~~

REPEAL: 414-460-0055

RULE SUMMARY: Rule is redundant under revised statute and therefore unnecessary.

CHANGES TO RULE:

~~414-460-0055~~

~~Program Design ¶¶~~

~~(1) Programs shall provide parents with information on child development, discipline, communication, and strategies for preparing their children for school success. Programs may include a support element.¶¶~~

~~(2) Programs shall be conducted at times and with conditions appropriate for adult learners.¶¶~~

~~(3) Programs shall develop and use a system to impart parenting skills and information that reflect the needs of the population served and in keeping with the parent education program requirements established by the Department of Education.¶¶~~

~~(4) Programs shall demonstrate coordination with existing community resources including public schools, local Head Start programs, local health and welfare agencies, community colleges, and any other local parent education/support programs.¶¶~~

~~(5) Programs shall complete formative and summative self-evaluations in accordance with requirements established by the Department of Education.¶¶~~

~~(6) Programs may charge families for services based on their ability to pay. Programs will be required to document how fee schedules are established and how funds are used.~~

~~Statutory/Other Authority: ORS 684~~

~~Statutes/Other Implemented: ORS 329.175, 329.195~~

REPEAL: 414-460-0070

RULE SUMMARY: Rule is redundant under revised statute and therefore unnecessary.

CHANGES TO RULE:

~~414-460-0070~~

~~Suspected Abuse ¶~~

~~If employees of the parent education program, in their official capacity, have reasonable cause to believe any child of a parent participant has suffered abuse or neglect, they shall report or cause a report to be made in the manner required in ORS 418.755.~~

~~Statutory/Other Authority: ORS 684~~

~~Statutes/Other Implemented: ORS 329.175, 329.195~~