



## Oregon Administrative Rules - Oregon Department of Education

### Early Learning Division

[OregonEarlyLearning.com](http://OregonEarlyLearning.com)

A public hearing on the proposed rules has been scheduled on January 21, 2020 at 3:00 p.m. All persons wishing to give testimony must sign in no later than 3:15pm.

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](mailto:Remy.Watts@ode.state.or.us)

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#### **December 12, 2019**

The Early Learning Council will begin formal rulemaking to adopt permanent administrative rules relating to Preschool Promise OAR Chapter 414, Division 450, 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 the Preschool Promise program made by HB 2025 passed by the 2019 Legislature. The bill changed the funding structure for Preschool Promise by providing the authority for the Early Learning Division to grant or contract directly with preschool providers and fiscal agents.

The Council is considering the attached draft rule language. Substantive changes to permanent rules will update eligibility criteria for fiscal agents, Preschool Promise providers, and families and children served, as well as provider scoring criteria and processes.

A public hearing on the rules for re-adoption has been scheduled on January 21, 2020 at 3:00 p.m. All persons wishing to give testimony must sign in no later than 3:15pm.

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](mailto: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  
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SECRETARY OF STATE  
  
A. RICHARD VIAL  
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION  
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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 2:43 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: HB 2025 (2019 Legislative Session) requires changes the Preschool Promise 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  
remy.watts@ode.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: 3:00 PM - 4:00 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 3:15pm if you would  
like 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 Preschool Promise program made by HB 2025 passed by the 2019 Legislature. The bill changed the funding structure for Preschool Promise by providing the authority for the ELD to grant or contract directly with preschool providers and fiscal agents.

**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/HB2025/Enrolled>)

**FISCAL AND ECONOMIC IMPACT:**

the Preschool Promise 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).

(1) There are no anticipated adverse impacts for units of local governments, and members of the public are not likely to be economically affected by the rule(s). If local government programs apply and are funded, they will be economically bolstered to serve local populations.

(2)(a) Small businesses that provide services under the Preschool Promise program are eligible to apply for grants.

(b) There would be a minimal cost to a small business to apply for a grant. Reporting, recordkeeping, and other administrative costs would be reimbursable expenses for awarded grants and therefore would not have any net costs. There is a change as a result of the legislation as to the entity that will incur those costs.

(c) Costs of these services attributable to the Preschool Promise program are reimbursable for awarded grants and therefore would not have any net costs. There is a change as a result of the legislation as to the entity that will incur those costs.

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

The Early Learning Division has reached out to its stakeholders (including small businesses) for input on the rules. 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.

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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.

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RULES PROPOSED:

414-470-0000, 414-470-0005, 414-470-0010, 414-470-0015, 414-470-0020, 414-470-0025, 414-470-0035, 414-470-0040, 414-470-0042, 414-470-0045, 414-470-0047, 414-470-0050, 414-470-0055, 414-470-0060, 414-470-0065, 414-470-0070, 414-470-0075

AMEND: 414-470-0000

RULE SUMMARY: Change in formatting to reflect statute change.

CHANGES TO RULE:

414-470-0000

Purpose: ~~Early Learning Hubs~~ Preschool Promise Program

The purpose of these rules is to define key terms, describe eligibility criteria, and to assist ~~Early Learning 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.

Statutory/Other Authority: ORS 326.425(7)

Statutes/Other Implemented: ORS 329.172

AMEND: 414-470-0005

RULE SUMMARY: Change in title and certain definitions to reflect change in statute.

CHANGES TO RULE:

414-470-0005

Definitions: ~~Early Learning Hubs~~ Preschool Promise Program

The following definitions apply to Oregon Administrative Rules ~~581-019414-470-003600~~ through ~~581-019414-470-004975~~.¶

- (1) "Child Care ~~p~~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.¶
- (2) "Division" means the ~~Early Learning Division of the Department of Education~~.¶
- (3) "~~Early Learning Hub~~" or "~~Hub~~" means an entity designated under ORS 417.827 and ~~con~~Culturally Specific Organization" means an organization that serves a particular cultural community and is primarily staffed and led by members of that community; these organizations demonstrate intimate knowledge of lived experience of the community, including but not limited to the impact of structural and individual racism or discrimination on the community; knowledge of specific disparities documented in the community and how that influences the ~~strauct~~ ed by the Early Learning Council to coordinate, fund and monitor early learning services in a specific region within the state.¶
- (4) "~~Quality Rating and Improvement System~~ure of their program or service; ability to describe the community's cultural practices, health and safety beliefs/practices, positive cultural identity/pride/resilience, immigration dynamics, religious beliefs, etc. and how their services have been adapted to those cultural norms.¶
- (3) "Division" means the ~~Early Learning Division of the Department of Education~~.¶
- (4) "~~Early Learning Hub~~" or "~~Hub~~" means an entity designated by regional partners to coordinate early learning services under ORS 417.827.¶
- (5) "~~Spark~~" 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.¶
- (5) "~~Preschool~~" means those programs which provide health, education, social and other comprehensive services in order to maximize the potential of three- and four-year-old children.¶
- (6) "~~Preschool Promise Program~~" means the preschool program administered by the Early Learning Division as directed under ORS 329.172.¶
- (7) "Preschool Provider" means an ~~eligible participant contracted by the Early Learning Hub~~ local entity who receives a grant or contract to provide preschool services under the Preschool Promise ~~p~~Program.¶
- (8) "Fiscal Agent" means a local entity that may provide services for multiple Preschool Providers.

Statutory/Other Authority: ORS 326.425(7)

Statutes/Other Implemented: ORS 329.172

AMEND: 414-470-0010

RULE SUMMARY: Change in eligibility criteria to reflect change in statutory authority. Added eligibility for foster children.

CHANGES TO RULE:

414-470-0010

Child and Family Eligibility Criteria: ~~Early Learning Hubs~~ ¶

~~(1) Early Learning Hubs are responsible for ensuring that child eligibility has been verified using an eligibility determination form provided by the Division.~~ Children and families who meet the following criteria are determined eligible for the Preschool Promise Program. ¶

~~(a)~~ (a) Family income is at or below 200 percent of the Federal Poverty Level in effect at the time eligibility is determined. ¶

~~(2b)~~ (b) Children must be at least three years of age ~~on or before September 1 of their entrance year and not eligible for kindergarten as determined by the State Board of Education by rule but not older than five years of age, as determined by the date used to determine kindergarten eligibility.~~ ¶

~~(c)~~ (c) An exception may be provided by the Division to (a) to address the specific circumstance of a community served by a Preschool Provider. ¶

~~(2)~~ (2) Notwithstanding (1) (a), A "Foster Child" as define in ORS 418.200 is eligible for the Preschool Promise Program.

Statutory/Other Authority: ORS 326.425(7)

Statutes/Other Implemented: ORS 329.172

AMEND: 414-470-0015

RULE SUMMARY: Change in application process to align with statute change.

CHANGES TO RULE:

414-470-0015

~~Hub Selection Process; Fund disbursement: Early Learning Hub Provider Application Process~~ ¶

~~(1) Hubs will be selected through the public procurement process as provided in ORS Chapter 279A and 279B.~~ ¶

~~(2) Funding for Preschool Promise Program will be directed through Early Learning Hubs and allocated through a process determined by the Early Learning Council.~~ A call for applications shall be announced publicly on the Division's website. The division will conduct stakeholder outreach to its list of interested parties, and will engage communities, including federally recognized Oregon Indian tribes, across the state to make them aware of the funding opportunity. ¶

(2) Funds shall be awarded on a competitive basis by July of each calendar year in accordance with timelines established by the Early Learning Division. Grants will be made for a period not to exceed a state fiscal biennium and may be renewed for up to two biennia as determined by availability of funds and program monitoring and evaluation identified in OAR 414-470-0047(2). ¶

(3) Applicants must submit in the format prescribed by the Division, which contains information required by the Division.

Statutory/Other Authority: ORS 326.425(7)

Statutes/Other Implemented: ORS 329.172

REPEAL: 414-470-0020

RULE SUMMARY: Change in statute has changed use of funding for the early learning hubs, and this rule no longer applies.

CHANGES TO RULE:

~~414-470-0020~~

~~Use of Funds by Hubs ¶¶~~

~~(1) 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.¶¶~~

~~(2) Of the funds distributed, the Early Learning Division may establish a maximum percentage allowable for coordination and administration and a maximum percentage allowable for building provider capacity to meet Preschool Promise program standards.¶¶~~

~~(3) 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.~~

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

~~Statutes/Other Implemented: ORS 329.172~~



AMEND: 414-470-0025

RULE SUMMARY: Change in provider eligibility to reflect change in statute.

CHANGES TO RULE:

414-470-0025

Provider Eligibility Criteria for Preschool Promise Program Providers ¶

The following entities shall be eligible for funding:¶

~~(1) A Head Start program to apply to be a Preschool Provider:¶~~

(1) Child Care Provider:¶

(2) Community-based organization:¶

(3) Culturally specific organizations:¶

~~(24) An Oregon Prekinderg~~Early Learning Hub as designated in ORS 417.827:¶

(5) Education service district: ¶

~~(6) Federal Head Start~~ program;¶

~~(37) A child care provider~~Federally Recognized Oregon Indian Tribes;¶

~~(48) A relief nursery~~Oregon Prekindergarten;¶

~~(59) A p~~Private preschool;¶

~~(6) A p~~10) Public school;¶

~~(7) A p~~11) Public charter school;¶

~~(8) An education service district, or;~~¶

~~(9) A community-based organization~~12) Relief Nursery.

Statutory/Other Authority: ORS 326.425(7)

Statutes/Other Implemented: ORS 329.172

REPEAL: 414-470-0035

RULE SUMMARY: Rule is no longer necessary under revised statute.

CHANGES TO RULE:

~~414-470-0035~~

~~Provider/Hub Contracts ¶~~

~~Prior to enrolling a child under the program, a preschool provider shall enter into a contract with the Hub. The contract shall meet public procurement standards and be reviewed for legal sufficiency when required by law.~~

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

~~Statutes/Other Implemented: ORS 329.172~~

RULE SUMMARY: Provider scoring criteria and process updated to reflect change in statute.

CHANGES TO RULE:

414-470-0040

Minimum Requirements: Preschool Promise Program

To be eligible to provide preschool services under the Preschool Promise Program, a preschool provider must:

- (1) Provide, at a minimum, the annual number of instructional hours required for full-day kindergarten as determined by the State Board of Education by rule.
- (2) Take into consideration the scheduling needs of families who need full-time service.
- (3) Provide continuity from infant and toddler services to early elementary grades.
- (4) Demonstrate an ability to maximize available federal, state and local funds.
- (25) Meet quality Demonstrate quality through meeting program standards; including:
  - (a) Attaining one of the top two ratings of but not limited to:
    - (a) Participates in the quality rating and improvement system (Spark) for early childhood programs.
    - (b) Adopting culturally responsive teaching methods and practices.
    - (c) Providing highly trained lead preschool teachers who have a:
      - (i) At least a bachelor's degree in e: (I) Early childhood education or a field related to early childhood education. The requirements of this subparagraph may be satisfied by i; or (II) A field not related to early childhood education but teacher has completed coursework that is equivalent to a major in early childhood education and has sufficient training in early childhood education as determined by the Division.
      - (ii) An associate degree with additional training or additional certification in early childhood education or a field related to early childhood education, as determined by the Division; or
      - (iii) Child Development Associate (CDA) Preschool Credential or equivalent step level as determined by the Oregon Registry Online (ORO) or otherwise determined by the Division.
    - (d) Lead preschool teachers who do not have a bachelor's degree but who have must submitted a plan to attain a bachelor's degree and are must 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.
  - (de) Providing lead preschool teachers and teacher assistants with a salary that meets the minimum salary requirements established by the Early Learning Council Division.
  - (ef) 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.
  - (fg) Participates in an ongoing monitoring and program evaluation system that is used for continuous program improvement as established by the Division.
  - (h) Provides a high quality, culturally responsive family engagement environment that supports parents as partners in a child's learning and development.
  - (i) Provides high quality, culturally responsive curricula, assessments and professional development that are linked to one another and to the state's comprehensive early learning standards.
  - (j) Provides a classroom environment that is inclusive of all children, regardless of ability or family income.
  - (k) Providing children and families with additional health and child development supports, such as screening, referrals and coordination with health care providers.
  - (l) Incorporates best practices in outreach, enrollment and programming for diverse cultural and linguistic populations and children who have been historically underserved in preschool programs.
  - (m) Works in collaboration with community programs to ensure that families have knowledge of, and are connected to, community resources and supports to meet the needs of children and families served by the preschool program.
- (6) Applications to operate a Preschool Promise program as authorized in ORS 329.172 will be scored on the provider's ability to meet Preschool Promise requirements. Scoring criteria will be established by the division.

Statutory/Other Authority: ORS 326.425(7)

Statutes/Other Implemented: ORS 329.172

ADOPT: 414-470-0042

RULE SUMMARY: Rule added to reflect change in statute.

CHANGES TO RULE:

414-470-0042

Provider Funding Selection and Grant Award

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

(2) A grant review 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 committee. The grant review committee will review and score applications using scoring criteria established in OAR 414-575-0040(6). ¶

(3) The review committee will make funding recommendations to the director that provide for geographic representation where practicable. The director will make final decisions for funding. ¶

(4) The division will notify grant recipients of awards and announce the awards on its website. ¶

(5) The division will enter into a grant agreement with each prospective grant recipient using terms and conditions acceptable to the division. ¶

(6) 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. ¶

(7) Forfeited grant funds will be used to fund next highest scored application(s). ¶

(8) Any applicant not receiving funding may appeal for review to the Early Learning Council. Such appeal must be in writing within 15 days of the date of the notice of non-funding.

Statutory/Other Authority: ORS 326.425(7)

Statutes/Other Implemented: ORS 329.172

AMEND: 414-470-0045

RULE SUMMARY: Salary guidelines added to reflect change in statute.

CHANGES TO RULE:

414-470-0045

~~Minimum Salary requirements for Lead Preschool Teacher~~ Salary Guidelines ¶

~~The Early Learning Council shall establish a met~~ Division shall establish salary guidelines for Preschoedology to determine a target and minimum salary for Lead Preschool Teachers Providers through a grant agreement. ¶

(1) Salary guidelines shall be comparable to public school lead kindergarten teachers and assistants, to the extent practicable. ¶

(2) Salary guidelines may vary by region, experience, education, and program type. ¶

(3) Providers must follow salary guidelines provided by the Division.

Statutory/Other Authority: ORS 326.425(7)

Statutes/Other Implemented: ORS 329.172

ADOPT: 414-470-0047

RULE SUMMARY: Necessary rule addition governing grant awards to reflect change in statute.

CHANGES TO RULE:

414-470-0047

Administration

(1) The Early Learning Division will award and administer grant agreements with program guidelines to the grant recipients.¶

(2) Grant recipients must comply with the terms and conditions of the grant agreement including, but not limited to, comply with the Division's program monitoring, technical assistance, program evaluations, and reporting requirements.¶

(3) Noncompliance with program and agreement requirements may result in a grant recipient being deemed ineligible by the Division for future grants.

Statutory/Other Authority: ORS 326.425(7)

Statutes/Other Implemented: ORS 329.172

AMEND: 414-470-0050

RULE SUMMARY: Change in provider use of funds rules to reflect change in statute.

CHANGES TO RULE:

414-470-0050

Provider Use of Funds by Preschool Provider ¶

~~(1) 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 funds received by grant recipients for the Preschool Promise Program may be used only to support and deliver the Preschool Promise Program.¶~~

~~(2) Grant recipients must use appropriate internal, state or local public funds.¶~~

~~(2) Funds may not be used to pay for expenses incurred for children who:¶~~

~~(a) Pay tuition for the preschool program and whose family income at the time of enrollment exceeds 200 percent of federal poverty guidelines in effect at the time of enrollment.¶~~

~~(b) Are funded by the Oregon prekindergarten program, a Head Start program or another source of fiscal controls and generally accepted accounting procedures to ensure the proper disbursement and accounting for all funds provided.¶~~

~~(3) 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 fundings.~~

Statutory/Other Authority: ORS 326.425(7)

Statutes/Other Implemented: ORS 329.172



AMEND: 414-470-0055

RULE SUMMARY: Re-adoption of rule underneath updated statutory authority.

CHANGES TO RULE:

414-470-0055

Program Monitoring and Evaluation ¶¶

Programs will be monitored and evaluated on program ~~improvement~~ quality and outcomes using a process established by the Division.

Statutory/Other Authority: ORS 326.425(7)

Statutes/Other Implemented: ORS 329.172

AMEND: 414-470-0060

RULE SUMMARY: Change in waiver application procedure to streamline process.

CHANGES TO RULE:

414-470-0060

Waiver Application Process ¶¶

(1) A ~~p~~Preschool ~~p~~Provider may request a waiver of the requirements of ORS 329.172(4~~7~~) and ~~581-019414-470-00430~~ during the first years of the provider's participation in the Preschool Promise ~~p~~Program.¶¶

(2) The Division administers the waiver application and approval process ~~under the direction of the Early Learning Council.~~¶¶

(3) Waiver requests must be accompanied by a quality improvement plan for approval by the ~~Early Learning Council.~~Division 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.¶¶

(4) The ~~Early Learning Council~~Division 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.¶¶

(5) A waiver granted for any of the requirements does not negate the need for a waiver for other requirements.¶¶

(6) The granting of a waiver shall not set a precedent.¶¶

~~(7) Each request shall be evaluated on its own merits.~~

Statutory/Other Authority: ORS 326.425(7)

Statutes/Other Implemented: ORS 329.172

AMEND: 414-470-0065

RULE SUMMARY: Reporting requirements updated to reflect change in statute.

CHANGES TO RULE:

414-470-0065

Reporting: ~~Early Learning Hubs~~

~~Hubs shall ensure that~~Upon request by the Division, a Preschool Provider shall make available to the Division all information and data that demonstrates that providers are meeting the program requirements are made available to the Division upon request and anything necessary to monitor and evaluate the Preschool Promise Program, and in a manner as providedspecified by the Division.

Statutory/Other Authority: ORS 326.425(7)

Statutes/Other Implemented: ORS 329.172

AMEND: 414-470-0070

RULE SUMMARY: Re-adoption of rule to reflect updated statutory authority.

CHANGES TO RULE:

414-470-0070

Suspected Abuse ¶¶

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 has suffered or is suffering from abuse or neglect, shall report or cause a report to be made in the manner required in ORS 419B.005 to 419B.015.

Statutory/Other Authority: ORS 326.425(7)

Statutes/Other Implemented: ORS 329.172

ADOPT: 414-470-0075

RULE SUMMARY: New rule added to reflect change in statute.

CHANGES TO RULE:

414-470-0075

Fiscal Agent

(1) The following entities are eligible to apply to be a fiscal agent for multiple Preschool Providers:

(a) Community-based organization;

(b) Culturally specific organization;

(c) Early Learning Hub as designated in ORS 417.827;

(d) Education service district;

(e) Federal Head Start program;

(f) Federally Recognized Oregon Indian Tribe;

(g) Nonprofit organizations;

(h) Resource and referral entity established under ORS 329A.100 to 329A.135; or

(i) School district.

(2) The application process will be determined by the Division.

Statutory/Other Authority: ORS 326.425(7)

Statutes/Other Implemented: ORS 329.172