



Oregon

Kate Brown, Governor

Early Learning Division
Office of Child Care



RULEMAKING ADVISORY COMMITTEE Suspension & Expulsion Prevention Program (HB 2166, 2021)

DOCUMENTS:

- *DRAFT Suspension & Expulsion Program Rule Language – Page 2*
- *HB 2166 (2021) Adopted Statutory Language – Page 7*

OAR 414-580-0000: DEFINITIONS

The following definitions apply to OAR 414-580-0005 through OAR 414-580-XXXX:

- (1) “Early Childhood Suspension & Expulsion Prevention Program” means the program established by [ORS 329A.600](#).
- (2) “Suspension” means an early care and education provider temporarily removing a young child from the early care and education environment in response to behavior, through In-Program Suspension or Out-of-Program Suspension.
 - a) In-Program Suspension includes, but is not limited to, temporarily removing a child from the classroom or group setting by sending the child to the director’s office, a different classroom, or other location within the program or building in response to behavior.
 - b) Out-of-Program Suspension includes, but is not limited to, sending a child home from school, prohibiting them from returning to the program for 1 or more days, or otherwise reducing the hours the child spends per week in the program in response to behavior.
- (3) “Expulsion” means an early care and education provider dismissing a young child from the early care and education program permanently due to behavior.
- (4) “Soft Expulsion” means when an early care and education provider imposes conditions on or limits the hours of a child’s attendance in response to the child or family’s behavior; and the conditions or limitations result in circumstances in which the parent/family withdraws the child because the program no longer meets the needs of the parent/family.
- (5) “Anti-bias education” means an approach to teaching and learning designed to increase understanding of difference and their value to a respectful and civil society and to actively challenge bias, stereotyping and all forms of discrimination in schools and communities. It incorporates inclusive curriculum that reflects diverse experiences and perspectives, instructional methods that advance all students’ learning, and strategies to create and sustain safe, inclusive and respectful learning communities.
- (6) “Anti-bias practices” means an approach to providing services (e.g. early care and education, technical assistance, mental health consultation) that works to actively prevent and oppose the unfair treatment of people based on race, ethnicity, language, sex, gender, socioeconomic status, disability, immigration status.
- (7) “Anti-racist” means a person whose actions and beliefs actively counteract political, social, educational, and economic policies and practices that place value on the behaviors and values of certain racial groups over other racial groups.
- (8) “Baby Promise Programs” means infant and toddler care programs established under [ORS 417.784](#).
- (9) “Culturally responsive” means a person, policy or approach that is respectful of, and relevant to, the beliefs, practices, culture and linguistic needs of diverse populations and communities whose members identify as having particular cultural or linguistic affiliations by virtue of their place of birth, ancestry or ethnic origin, religion, preferred language or language spoken at home. Cultural responsiveness describes the capacity to

respond to the issues of diverse communities at the individual, professional, organizational, and systemic levels.

- (10) “Culturally Specific Early Learning Program” means a program that is designed to serve a particular cultural community and is primarily staffed and led by members of that community and designed by or adapted by members of the cultural community that it serves.
- (11) “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 structure 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.
- (12) “Division” means the Early Learning Division of the Oregon Department of Education.
- (13) “Early Care and Education Provider” means any of the following entities and their employees:
- a) All registered and certified family and center-based child care types described in [ORS 329A.600](#)
 - b) Preschool Promise Providers;
 - c) Oregon Prenatal to Kindergarten Providers;
 - d) Baby Promise Programs; and
 - e) Relief Nurseries.
- (14) “Early Learning Hub” means an entity designated by regional partners to coordinate early learning services under [ORS 417.827](#).
- (15) “Exclusionary practices” means any action taken by an early care and education program to deny access, implement a trial service period, increase costs, or otherwise impose barriers to a family seeking enrollment in their program because of a provider’s perception of the child’s needs or behavior.
- (16) “Implicit bias” means the unconscious mental process resulting in feelings and attitudes about people based on race, age, and appearance. These feelings and beliefs are expressed automatically, without conscious awareness, and have an impact on other people and groups of people.
- (17) “Inclusion” means the values, policies, and practices that create opportunities for every young child and their family, regardless of race, appearance, language, or ability, to participate in a broad range of activities and be supported to engage as full members of families, communities, and society. The desired result of inclusion is that all children and their families feel a sense of belonging and membership, develop positive social relationships and friendships, and experience learning that engages the individual child’s development. The defining features of inclusion that can be used to identify high quality early childhood programs and services are access, participation, and supports.
- (18) “Inclusive practices” means early care and education providers, technical assistance providers, and IECMH consultants intentionally and authentically promote the inclusion

of all young children and their families regardless of race, appearance, language or ability.

- (19) “Infant and Early Childhood Mental Health Consultation (IECMHC)” means a prevention-based approach that pairs a mental health consultant with adults who work with infants and young children in early care and education programs, such as child-care, preschool, early intervention, culturally specific early learning programs, and other early care and education programs. IECMHC Consultation employs a culturally responsive, trauma-informed lens to build adults’ capacity to strengthen and support the healthy social and emotional development of children.
- (20) “Oregon Prenatal to Kindergarten” means early care & education programs established under ORS 329.175.
- (21) “Positive racial identity development” means that young children are aware of and experience positive feelings about their racial identity, including feeling good about their biological heritage, physical appearance, cultural affiliation, and personal experiences.
- (22) “Preschool Promise Programs” means early care & education programs established under ORS 329.172.
- (23) “Regional Service Provider” means an entity that provides IECMHC services to Early Care and Education Providers and coordinates IECMHC services with other early childhood technical assistance providers, to promote early care and education provider access to resources, training and other technical assistance opportunities.
- (24) “Relief Nurseries” mean programs funded by ORS 417.788.
- (25) “Technical Assistance Provider” means a person or entity who provides training, consultation, coaching, or other professional development supports to early care and education programs and providers. A technical assistance provider may be employed by a Child Care Resource and Referral agency, an EI/ECSE program, other agencies, or may be an independent contractor.
- (26) “Trauma-informed” means principles, practices or services that are grounded in the recognition and understanding of the impact of trauma on individuals and groups; that services and classroom practices are designed and planned to promote healing and safety, with attention to avoiding re-traumatization. To be genuinely trauma-informed, practices must also be culturally responsive and actively anti-racist.
- (27) “Young Child” means a child aged prenatal to five.

OAR 414-580-0005: PURPOSE

- (1) The purposes of the Early Childhood Suspension and Expulsion Prevention Program are to reduce: the use of suspension, expulsion, and other forms of exclusionary discipline in early childhood care and education programs; and to reduce disparities in the use of suspension, expulsion, and other forms of exclusionary discipline in early childhood care and education programs based on race, ethnicity, language, ability or gender, by:
 - a) Providing supports and opportunities for enhancing professional development of the early childhood education workforce with a focus on ensuring early

childhood educators have the knowledge and skills to support children’s social, emotional and positive racial identity development through the use of anti-bias, culturally-responsive, and inclusive practices in the early education environment.

- b) Ensuring that all Regional Service and Technical Assistance Providers have the knowledge and skills to support early care and education providers and programs to implement foundational anti-bias, culturally responsive, and inclusive practices to ensure the stability of children’s placements within the early education environment.
- c) Providing supports for developing and implementing culturally-responsive, trauma-informed Infant and Early Childhood Mental Health Consultation services to support early care and education providers and programs to effectively meet the needs of all children
- d) Providing a coordinated system for early care and education programs to seek support, technical assistance and/or IECMH consultation services in maintaining the placement of specific children who present with persistent challenging behaviors.

OAR 414-580-0010: ELIGIBILITY TO BECOME A REGIONAL SERVICE PROVIDER

- (1) The Early Learning Division will administer a program that provides funding to eligible entities to serve as regional service providers.
- (2) The following types of entities may apply to the Early Learning Division to be a regional service provider as described in 414-580-0010(1):
 - (a) Child Care Resource & Referral Agencies;
 - (b) Early Learning Hubs;
 - (c) Relief Nurseries;
 - (d) Community-based organizations;
 - (e) Culturally specific organizations;
 - (f) Federally recognized Oregon Tribal Nations;
 - (g) Community mental health organizations;
 - (h) Coordinated Care Organizations; and
 - (i) Other Health Care Organizations.
- (3) To be eligible to become a Regional Service Providers, an entity must be able to:
 - (a) Demonstrate evidence of their commitment to equity and culturally responsive practice;
 - (b) Ensure that IECMH consultation services are accessible to populations most disproportionately impacted by suspension and expulsion; and
 - (c) Demonstrate the ability to collaborate with and coordinate services with other Technical Assistance providers to determine which person or program is best suited to respond to the request for services from an Early Care and Education Provider.

OAR 414-580-0015: REQUIREMENTS OF EARLY CARE & EDUCATION PROVIDERS

- (1) Early Care and Education Providers are required to request services from the Early Childhood Suspension and Expulsion Program:
 - a) When a provider identifies that a Young Child's behavior or other needs have the potential to result in a future suspension or expulsion;
 - b) Before a provider may suspend a Young Child; and
 - c) Before a provider may expel a Young Child.

- (2) After initiating a request for services, and before suspending or expelling a child, Early Care and Education Providers are required to:
 - a) Engage in the IECMH consultation or other technical assistance services that are offered; and
 - b) Demonstrate a good faith effort to implement the services and strategies identified through collaboration with IECMH consultants and technical assistance providers.

- (3) A provider may not engage in exclusionary practices.

OAR 414-580-0020: FUNDING

- (1) The Early Learning Division shall determine for each fiscal year the portion of the funds available for Regional Service Providers.

OAR 414-800-0030: REPORTING

- (1) Upon request by the Division, an Early Care and Education providers receiving technical assistance from Regional Service Providers must make available to the Division information and data that the Division determines is necessary to monitor and evaluate the program.
- 2) Regional service providers must cooperate and participate in the Division's program monitoring, program evaluations, and reporting requirements.

Enrolled
House Bill 2166

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Office of the Governor)

CHAPTER

AN ACT

Relating to education equity; creating new provisions; amending ORS 326.051, 327.254, 329A.280, 329A.330, 342.120, 342.147, 342.437, 342.940 and 348.295 and sections 4 and 5, chapter 756, Oregon Laws 2015; and declaring an emergency.

Whereas an equitable system of education means a system that enables every child to have an equal chance for success in education; and

Whereas an equitable system of education must take into consideration the whole child, including the child’s background, personal characteristics, family situation, mental health and social emotional development; and

Whereas all children deserve to receive high quality, culturally responsive, developmentally appropriate and inclusive early childhood care and education regardless of race, ethnicity, language or disability; and

Whereas not all children are given the same opportunity to succeed in education, as children in early childhood care or education programs are disproportionately disciplined based on race, ethnicity, language or disability; and

Whereas there are limited opportunities for early childhood care and education professionals who serve some of this state’s most vulnerable low income families to access professional development resources that are culturally specific or language diverse or that are related to behavioral health; and

Whereas providing resources and professional development to early childhood care professionals and educators could improve equity in education by reducing the disproportionate imposition of discipline, including suspension and expulsion; and

Whereas social emotional learning is a central component of an integrated model of mental and emotional health that also includes racial equity, trauma-informed principles and practices and strengths-based multitiered systems of support; and

Whereas social emotional learning skills, in conjunction with racial equity, trauma-informed principles and practices and strengths-based multitiered systems of support, can contribute significantly to mental and emotional health and overall health promotion and can be an integral part of school culture, climate, safety and mental and physical health promotion efforts; and

Whereas social emotional learning skills, in conjunction with racial equity, trauma-informed principles and practices and strengths-based multitiered systems of support, can enable school communities to create just, equitable and inclusive cultures in which all students, staff and leaders belong and feel respected, valued and affirmed in their individual and intersectional interests, talents, social identities, cultural values and backgrounds; and

Whereas social emotional learning skills, in conjunction with racial equity, trauma-informed principles and practices and strengths-based multitiered systems of support, can help schools culti-

vate understanding, examine biases, reflect on and address the impact of racism, build cross-cultural relationships and foster adult and student practices that close opportunity gaps and create more inclusive school communities that deliver high quality educational opportunities and outcomes for all students; and

Whereas social emotional learning should be incorporated into all academic content standards as part of an integrated model of mental and emotional health, with the explicit goal being to promote antiracism and educational equity and to create conditions for all students to thrive; and

Whereas this state's commitment to equity includes a culturally responsive educator workforce, which requires a vigorous and comprehensive commitment to relevant professional development and supports for educators who are serving this state's diverse learners; and

Whereas high quality educator preparation and ongoing, effective professional development and supports for educators are critical variables to an equitable education system, excellent teaching, educator retention and improved learning and development; and

Whereas recent actions taken by the Legislative Assembly have emphasized the need to address professional development for educators who serve children and students in early childhood and in kindergarten through grade 12; and

Whereas this state seeks to recruit and retain more diverse educators for the purposes of enhancing the capacity of all educators to create safe, equitable and inclusive learning environments and addressing institutional racism that limits opportunities for many children and students; now, therefore,

Be It Enacted by the People of the State of Oregon:

EARLY CHILDHOOD SUSPENSION AND EXPULSION PREVENTION

SECTION 1. (1) The Early Childhood Suspension and Expulsion Prevention Program is established. The Early Learning Division shall administer the program as provided by this section.

(2) The purposes of the Early Childhood Suspension and Expulsion Prevention Program are to:

(a) Reduce the use of suspension and expulsion in early childhood care and education programs; and

(b) Reduce disparities in the use of suspension and expulsion in early childhood care and education programs based on race, ethnicity, language, ability or any other protected class identified by the Early Learning Council by rule.

(3) The Early Childhood Suspension and Expulsion Prevention Program shall achieve the purposes described in subsection (2) of this section by:

(a) Incorporating into early childhood care and education programs racial equity, trauma-informed principles and practices and strengths-based multitiered systems of support;

(b) Supporting the capacity of families, educators and early childhood care and education professionals to promote children's social emotional well-being and growth;

(c) Creating a source for early childhood care and education professionals to request technical assistance related to children's social emotional well-being and growth;

(d) Building capacity in communities to deliver technical assistance that supports:

(A) Children's social emotional development;

(B) Children's **positive racial identity development;**

(C) **Antibias practices in early childhood care and education programs; and**

(D) **Inclusive practices in early childhood care and education programs;**

(e) Enhancing community-based supports for families that have a history of trauma, are involved in multiple systems of support or need connection to intervention services;

Enrolled House Bill 2166 (HB 2166-B)

The highlighted language are the areas that the RAC will be working on.

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(f) Providing early childhood care and education professionals with access to technical assistance to support the stability of placements in early childhood care and education programs; and

(g) Developing and supporting practices that reduce the use of suspension or expulsion.

(4) **Under the Early Childhood Suspension and Expulsion Prevention Program, the Early Learning Division shall establish:**

(a) **Common definitions related to antibias practices in early childhood care and education;**

(b) **Common definitions related to inclusive practices in early childhood care and education;**

(c) **Common definitions and guidelines for early childhood care and education suspension and expulsion;**

(d) **Standards and guidelines for program administration and for the delivery of technical assistance services that are culturally responsive and that ensure technical assistance is implemented with a focus on antibias and inclusive practices;**

(e) Requirements for knowledge, skills and competencies for technical assistance specialists and mental health consultants participating in the program, with a focus on racial equity, the science of child development, trauma-informed principles and practices, social emotional learning principles, antibias practices and inclusive practices;

(f) Standards for data collection and evaluation to assess the impacts of the program, including eliminating disparities in exclusionary practices based on race, ethnicity, language, ability or other protected classes; and

(g) **Requirements that early childhood care and education programs certified or registered under ORS 329A.280 or 329A.330, or receiving public funding for early childhood care and education services, must request services from the Early Childhood Suspension and Expulsion Prevention Program when a young child in an early childhood care or education program is facing potential expulsion.**

(5) In support of the Early Childhood Suspension and Expulsion Prevention Program, the Early Learning Division shall coordinate with the Oregon Health Authority to develop a plan for integrated mental and behavioral health and social and emotional supports for children and families, including establishing a resource list of diverse, community-based mental health consultants to support the goals of the suspension and expulsion program.

(6) The Early Learning Council may adopt any rules necessary for the administration of this section.

SECTION 2. ORS 329A.280 is amended to read:

329A.280. (1) A person may not operate a child care facility, except a facility subject to the registration requirements of ORS 329A.330, without a certification for the facility from the Office of Child Care.

(2) The Early Learning Council shall adopt rules for the certification of a family child care home caring for not more than 16 children. The rules shall be specifically adopted for the regulation of certified child care facilities operated in a facility constructed as a single-family dwelling. Notwithstanding fire and other safety regulations, the rules that the council adopts for certified child care facilities shall set standards that can be met without significant architectural modification of a typical home. In adopting the rules, the council may consider and set limits according to factors including the age of children in care, the ambulatory ability of children in care, the number of the provider's children present, the length of time a particular child is continuously cared for and the total amount of time a particular child is cared for within a given unit of time. **The rules must require compliance with the provisions of section 1 of this 2021 Act.**

(3) In addition to rules adopted for and applied to a certified family child care home providing child care for not more than 16 children, the council shall adopt and apply separate rules appropriate for any child care facility that is a child care center.