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NOTICE OF PROPOSED RULEMAKING INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 581

OREGON DEPARTMENT OF EDUCATION

FILED

10/20/2025 2:28 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: SB 141 (2025) Bill Implementation: Strengthening and Expanding Instructional Materials - Removing Publisher Fees

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/11/2025 9:00 AM

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.

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Filed By:
Haedon Brunelle
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HEARING(S)

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

DATE: 11/18/2025

TIME: 3:00 PM - 4:00 PM

OFFICER: Haedon Brunelle

REMOTE HEARING DETAILS

MEETING URL: Click here to join the meeting

PHONE NUMBER: 669-254-5252

CONFERENCE ID: 1618307027

NEED FOR THE RULE(S)

Per SB 141 (2025), the Oregon Department of Education is removing rule language relating to publisher fees.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

SB 141 (2025) can be found on the Oregon Legislative Information System (OLIS) here:
<https://olis.oregonlegislature.gov/liz/2025R1/Measures/Overview/SB141>

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

This does not have a direct impact on racial equity.

FISCAL AND ECONOMIC IMPACT:

These changes will remove the prior funding mechanism for the High Quality Instructional Materials (HQIM) program, which has since been replaced with stable funding from the legislature.

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).

Fees will no longer be charged by rule, which will save funds that are normally geared toward paying for these fees.

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

This will benefit small business that may submit materials for evaluation and adoption.

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

An administrative rule advisory committee was not consulted. The Oregon Department of Education (ODE) identifies those who may be impacted by these rule updates and hosts direct engagements with them. In addition, ODE staff present their rule updates to a broader group of education partners ranging from non-profits, education service districts, school districts, student rule advisors, and more, prior to approaching the State Board of Education for further consideration and a vote. The State Board of Education holds public meetings and recordings for all rules. You can find all of their meetings here on boardbook: <https://meetings.boardbook.org/Public/Organization/2146>.

RULES PROPOSED:

581-011-0055, 581-011-0087, 581-011-0090, 581-011-0114

AMEND: 581-011-0055

RULE SUMMARY: The Oregon Department of Education is proposing to remove language relating to the collection of fees per SB 141 (2025).

CHANGES TO RULE:

581-011-0055

Guidelines for the Selection of Instructional Materials Criteria Committees ¶¶

- (1) Instructional materials criteria committees shall be appointed by and work under the supervision of the Oregon Department of Education.¶¶
- (2) A criteria committee in each subject area for which state adoptions are planned shall be appointed the year preceding a state adoption. The committee shall recommend categories and draft criteria to be used in evaluating the instructional materials submitted for basal consideration.¶¶
- (3) Committees shall conduct committee work in time to present the final draft of the criteria to the State Board of Education by the Board's January meeting in the year of the adoption.¶¶
- (4) Each committee shall be chaired by the Department of Education specialist in the particular subject area for which criteria are being developed. In the event that there is not a staff specialist in a particular subject field, the Department shall obtain a specialist to serve as chair.¶¶
- (5) Each committee shall include no less than five members selected from among Oregon classroom teachers, curriculum specialists, and others having experience and expertise in the subject area under consideration.¶¶
- (6) Travel, lodging, and meal expenses for committee meetings are to be reimbursed in accordance with state policy from review fees collected by the Department of Education from publishers.

Statutory/Other Authority: ORS 337.035

Statutes/Other Implemented: ORS 337.035

AMEND: 581-011-0087

RULE SUMMARY: The Oregon Department of Education is proposing to remove the language in section 4 of the current rule filing as it mentions fees that are being removed per SB 141 (2025).

CHANGES TO RULE:

581-011-0087

Digital, Electronic, or Web-based Materials and Media ¶¶

(1) As indicated in OAR 581-011-0050(1) and (2), Instructional materials are defined as any organized system which constitutes the major instructional vehicle for a given course of study, or any part thereof. Instructional Material may include digital content or software in a format such as electronic and internet or web-based materials or media.¶¶

(2) Contract, review, and evaluation process involving digital, electronic, or web-based materials and media shall be the same as print materials.¶¶

(3) As stated in OAR 581-011-0086, the State Board of Education must approve the request of a publisher to substitute a more recent edition or version of any officially adopted material. However, software updates that improve functionality, performance, or accuracy are allowed if approved by the Department of Education. New and revised editions or versions must be sold at the same or lower price as those previously approved.¶¶

~~(4) According to ORS 337.060 a publisher or other supplier who submits a proposal under 337.060 is required to pay a fee equal to the retail price expended by a school district during the length of the contract period, or \$50, whichever is greater, for each title or item of instructional material proposed by the publishers or supplier for review and adoption by the Board. Bid proposals must include available retail price structures such as per student, per computer, subscription and other unit price structures and may include models where the cost is divided over multiple years and paid annually (as opposed to a single payment). Bid proposal fees are payable prior to consideration of the proposal.¶¶~~

~~(5) Materials that comply with the interoperability standards can be considered for adoption according to ORS 337.075.¶¶~~

~~(6) Materials shall be accessible consistent with OAR 581-015-2060, 581-022-2355, 581-022-2340, 581-022-2360, 581-011-0052 and compliant with all state or federal laws regarding accessibility. A publisher that offers digital, electronic, or web-based materials must provide an accessibility conformance report for each electronic component that documents adherence to the Web Content Accessibility Guidelines (WCAG) identified in the circular of information and technical standards required by the Federal Rehabilitation Act, Section 508. The report must be based on an audit testing a random sampling of each different type of electronic component as outlined in each circular of information.¶¶~~

~~(7) Materials cannot include free or gratis equipment such as computer hardware, technology devices or equipment, which are intended to deliver or display the material but which are not instructional materials. This includes but is not limited to computers, laptops, handheld devices, microscopes, CD/DVD players, overhead or LCD projectors, electronic whiteboards, phone/music/transmitting and listening devices, and cameras.¶¶~~

~~(8) In accordance with ORS 337.090, if any publisher fails to carry out the provisions of the contract or with the intent to evade the provisions of the contract, sells any of the materials in this state at prices higher than specified in the contract of the publisher, the Board may, on behalf of the state, rescind the contract and notify the publisher thereof, or bring the appropriate action or suit to enforce the provisions of the publisher's bond or letter of credit, payable to the State of Oregon for the benefit of the Common School Fund.~~

Statutory/Other Authority: ORS 337.035

Statutes/Other Implemented: ORS 337.035

REPEAL: 581-011-0090

RULE SUMMARY: The Oregon Department of Education is proposing to the State Board of Education a need to repeal to this rule due to SB 141 (2025).

CHANGES TO RULE:

581-011-0090

Assessment of Submission Fees ¶¶

The following provisions shall govern the payment and collection of submission fees required of publishers who submit instructional materials for adoption. These rules are established pursuant to ORS 337.065.¶¶

(1) The fee, the retail price or \$50 whichever is greater, will be levied for each title or item of instructional material which is submitted by the publisher for review and possible adoption by the State Board of Education. An "item of instructional material" as used in this subsection is a component, set or kit of instructional materials packaged and sold as a unit. The publisher will indicate on the submission forms and the official proposal forms furnished by the Department of Education only the item(s) proposed for adoption.¶¶

(2) No fee will be required for teacher's editions of instructional materials which contain the same textual material as students' content for teacher use even though they may be evaluated in conjunction with the basic instructional program to support its strength. However, in those instances in which a teacher's guide in itself constitutes the basic program, the fee will be charged.¶¶

(3) An item of instructional material which is submitted in multiple forms (e.g., hardback, softback, electronic, loose-leaf or broken into several parts which are produced as separate units -- unless these parts are submitted for adoption at separate grade levels) which contain the same content and are evaluated essentially as one item will be assessed only one fee for the most costly format. If the materials are submitted as a set or kit for a continuous sequence of grades, a separate fee will be charged for each grade encompassed. If an item of instructional material is submitted in more than one category, a separate submission form and official proposal form must be completed for each category. A separate fee will be assessed for each category.¶¶

(4) Official forms for submission of instructional materials by publishing companies for consideration for adoption shall carry instructions and provide columns for entering the retail price and the fee to be paid for each item. Such fees will be checked for accuracy by the Department of Education on receipt of the forms, and the company will be billed for the amount due. The publisher's materials are approved for evaluation for adoption upon receipt of the correct fee. No fees will be refunded once the evaluation has been completed except in cases of fees miscalculation.¶¶

(5)(a) The Department of Education may waive the fee described in subsection (1) of this rule for an item of instructional material if the item is:¶¶

(A) A teaching and learning resource that resides in the public domain or that has been released under an intellectual property license that permits the free use and/or repurposing by others of the title or item;¶¶

(B) A basal instructional program as defined in OAR 581-011-0050; and¶¶

(C) Submitted in the format described in paragraph (A) of this subsection.¶¶

(b) The Department of Education may determine the number of waivers each year, no later than 90 days prior to the evaluation, based on the annual fee assessment.¶¶

(c) The submitter of instructional materials must request a waiver using forms provided by the Department of Education.¶¶

(d) The Department of Education shall prioritize waiver requests for materials described in subsection (5)(a) and for materials created by Oregon educators and school districts.

Statutory/Other Authority: ORS 337.030, 337.035, 337.060, 337.065, 337.075, 337.260

Statutes/Other Implemented: ORS 337.065

AMEND: 581-011-0114

RULE SUMMARY: The Oregon Department of Education is proposing to remove language relating to fees that are being removed per SB 141 (2025).

CHANGES TO RULE:

581-011-0114

Instructional Materials Caravan ¶¶

(1) The Oregon Department of Education, in cooperation with Education Service Districts and School Districts throughout the state, may conduct an Instructional Materials Caravan.¶¶

(a) Publishers or suppliers whose materials were adopted by the State Board of Education in the Subject Matter Cycle may participate in the Caravan.¶¶

(b) The Department may require publishers to pay a fee to participate in the caravan ~~in addition to the bid submission fee charged for review according to ORS 337.065.~~¶¶

(2) Publishers shall follow the guidelines of the caravan as established by the Department of Education.¶¶

(a) Only Board adopted materials are to be presented, shown, or included in the Caravan.¶¶

(b) Pupil editions, teacher editions (samplers included) and ancillaries, in any form can be reviewed by attendees but must be returned at the end of the presentation. No gifts, food items, gadgets, "doohickeys" or sample materials which include media are to be given to participants attending the presentations.¶¶

(c) Pamphlets, brochures, catalogues, or two page reports describing the adopted program may be distributed including correlations to the Oregon Standards. Publisher representatives may attach business cards to these items but no personal contact information is to be gathered from caravan participants.¶¶

(d) Publishers may not participate in any other events involving caravan participants during the caravan period.¶¶

(e) Violations of caravan guidelines may result in a publisher being removed from the caravan.

Statutory/Other Authority: ORS 337.035

Statutes/Other Implemented: ORS 337.035