**DRAFT CREATED BY AM**

**581-022-2505 Alternative Education Programs**

(1) For the purposes of this rule, “alternative education” is defined as public or private alternative schools or programs whose primary mission is to serve students whose academic, social, emotional, and/or behavioral needs are not being met by a traditional program or school.

(a) Alternative education is designed to best serve these students’ educational needs and interests through small classes and individualized attention, while assisting students to achieve the academic standards of the school district and the state through varied instructional interventions, strategies, and techniques.

(b) Alternative education may be responsive to students’ needs by providing, for example, unique programming, non-traditional hours, hybrid, or virtual experiences for students.

(c) Sections (2)–(9) of this rule apply to each public or private alternative education program approved by a school district board on or after July 1, 2007. For the purposes of this rule, the term "program" includes "school."

(2) In order to provide innovative and more flexible ways of educating children, school districts may establish alternative education options within the public school system.

(3) School districts must adopt policies and procedures for the approval and at least annual evaluation of public and private alternative education programs under ORS 336.615-336.665 (Alternative Education Programs) that receive public funds. Those policies and procedures must provide that:

(a) The district's approval and at least annual evaluation must require that a public alternative program complies with all state statutes, rules and federal law applicable to public schools;

(b) Before contracting with or distributing any public school funds to a private alternative education program, the district must document that:

(A) The program is registered with the Oregon Department of Education (ODE) under the provisions of OAR 581-021-0072 by receiving a copy of the Department's written notice that the program's registration is approved for the current school year;

(B) The ODE has assigned the private alternative program an institution identification number;

(C) Before contracting with or distributing any public school funds to any private alternative education program for special education services identified in a child's IEP, the program is approved by the Department in compliance with OAR 581-015-2270;

(D) The program complies with the individual education plan for each student who is eligible to receive special education services;

(E) An education plan and education profile that meet the requirements of OAR 581-022-2000 are designed and implemented with each student in the program;

(F) The education plan includes criteria for determining if, when, where, and how the student may transition from the alternative program;

(G) A transportation plan is in place ensuring that the program is accessible to each student approved for placement in the program;

(H) The program assists the district in meeting its comprehensive K-12 instructional program in compliance with OAR 581-022-2030;

(I) The program assures that it provides an instruction based on academic content standards adopted by the State Board of Education and that students participate in district and state assessments of achievement for the grade level(s) the program serves;

(J) The program assists students in earning diploma credits consistent with OAR 581-022-2000, 581-022-2010 and 581-022-2020;

(K) The program collects and reports to the district each student's local and state assessment, attendance, behavior, graduation, dropout, and other data required by the district and the state;

(L) Student data is included in the district's at least annual evaluation of the program;

(M) The program complies with federal law; and

(N) If applicable, the private alternative education program is in compliance with its existing district contract.

(4) The contract between a school district and a private alternative education program must state that non-compliance with a rule or statute under this rule (OAR 581-022-2505) will result in the termination of the contract, and suspension or revocation of registration by the Department will terminate the district's contract with the private alternative program and that the private alternative education program's annual statement of expenditures is reviewed in the district's' evaluation in accordance with ORS 336.635(2).

(5) School districts shall adopt policies and procedures to approve placing students in district approved public alternative education programs and district approved private alternative education programs. Such policies and procedures must ensure that:

(a) Students placed in alternative education programs are those whose educational needs and interests are best served by participation in such programs and will include:

(A) Students identified pursuant to ORS 339.250:

(i) Who are being considered for suspension or expulsion pursuant to ORS 339.250;

(ii) Who have been suspended or expelled pursuant to ORS 339.250;

(iii)) Whose attendance patterns have been found to be so erratic that the students are not benefiting from the regular educational program; or

(iv) Who have had a second or subsequent occurrence within any three-year period of a severe disciplinary problem;

(B) Students identified pursuant to ORS 329.485 and OAR 581-022-1110(5) who do not meet the standards or who exceed all of the standards at any benchmark level;

(C) Students admitted to the district pursuant to ORS 339.115 who have not yet turned 21 prior to the start of the school year and who need additional instruction to earn a diploma in compliance with OAR 581-022-2000;

(D) Students whose parents or legal guardians apply for the student's exemption from compulsory attendance on a semiannual basis as provided in ORS 339.030 and OAR 581-021-0076; and

(E) Others who are individually approved for placement consistent with the district's board policies regarding the placement;

(b) Placement of a student in a public or private alternative education program may be made only if:

(A) The student is a resident of the district and the district has legal responsibility for the student's education consistent with ORS 327.006(7);

(B) After assessing the student's needs and interests and consulting with the parent or guardian, the district determines that the student is not benefiting, has not benefited, or will not benefit from attendance in other district schools or programs;

(C) The alternative program is determined by the district to best serve the student within local and state academic standards; and

(D) Placement in the program is made consistent with the student's education plan pursuant to OAR 581-022-1120(3)(a) and (b) and 581-022-2000(3) and with district policies and procedures;

(c) Placement in a public or private alternative education program must be made with the approval of the student's resident school district and attending school district; and

(d) Payment to private alternative education providers must be the actual cost of the program or an amount at least equivalent to 80 percent of the district's estimated current year's average per student net operating expenditure, whichever is less.

(6) A school district must adopt policies and procedures for notification of students, parents or guardians of students of:

(a) The law regarding alternative education programs;

(b) The availability of existing alternative education programs; and

(c) The procedures for students, parents, or guardians of students residing in the district to request the establishment of new alternative education programs.

(7) School districts must include opportunities for participation by educators, community members, and parents or guardians in the development of policies and procedures under this rule.

(8) School districts must have policies and procedures in place to ensure that, for the purposes of making claims for state school funds;

(a) Students enrolled in a public school district and receiving instruction in the district's comprehensive planned K–12 curriculum consistent with OAR 581-022-2030 and who are individually placed by the school district in an alternative education programs are accounted consistent with 581-023-0006(7);

(b) Students supplementing home or private schooling by attending part-time and receiving less than comprehensive education from the district are accounted consistent with OAR 581-023-0006(6)(a);

(c) Students receiving online instruction are accounted consistent with reporting guidelines published in the Oregon Student Personnel Accounting Manual, and

(d) Activities claimed for state school funds and credits awarded in the alternative education program consistent with OAR 581-023-0008 are approved by the district and by the contract between a private alternative program and the district.

(9) School districts must have policies and procedures in place to ensure that data for each student in public and private alternative education programs are included in district reporting as required by ODE.

Statutory/Other Authority: ORS 326.051, 327.125, 336.625 & 336.645

Statutes/Other Implemented: ORS 327.006, 329.485, 336.615 - 336.665, 329.485, 339.115, 339.030 & 339.250