

DIVISION 22 STANDARDS AND APPEALS

At the direction of the Oregon Legislature, the State Board of Education has established educational standards every school district must implement. ORS 326.051. Those standards, known as the Division 22 Standards, are set out in OAR Chapter 581, Division 22.

Districts must comply with the Division 22 Standards. If a parent or guardian of a student or a person who resides in the school district believes a school district is not in compliance with a Division 22 Standard, that person may file a Division 22 complaint with that school district. Following a final decision by the school district, that person may appeal the Division 22 complaint to the Department using the process set out in OAR 581-022-1940.

If the Department conducts an investigation and determines that a school district is out of compliance with a Division 22 standard, the school district must submit to the Department a plan for becoming compliant. ORS 327.103(3). The plan must be approved by the Deputy Superintendent.

The school district is required to be back in compliance before the beginning of the following school year. ORS 327.103(2). If the Deputy Superintendent determines that the deficiencies cannot be corrected or removed before the beginning of the next school year, the Deputy Superintendent may allow an extension of time to demonstrate compliance, not to exceed 12 months. ORS 327.103(3)(a). If the school district fails to show compliance within the required time, the Deputy Superintendent of Public Instruction may withhold state school funds. ORS 327.103(2).

ANALYSIS

OAR 581-022-1330(4) states: "The instruction provided to identified students shall be designed to accommodate their assessed levels of learning and accelerated rates of learning." It is the Department's interpretation of its rule that each individual TAG student will be met with a plan of instruction at her or his rate and level of learning whenever appropriate to that particular student's TAG identification. In order for this to happen, teachers must first know whether a student is TAG identified. Teachers must then differentiate instruction and continually assess to determine whether rate and level is being met for each TAG identified student.

In January, Department staff spent a day in the District, observing elementary, middle school, and high school classrooms. In some instances, Department staff did observe rate and level happening in the classroom. For example, during an AP English class, students participated in a Socratic Circle exercise. During that exercise, the teacher demonstrated the ability to differentiate instruction and meet the rate and level needs of the participating students. In an elementary school classroom, rate and level was accomplished during a writing exercise where the teacher provided the students with leveled opportunities, the students could choose between interest-based options, and the teacher provided the students with options in writing their conclusions.

Department staff also observed instances where a teacher started out with some rate and level but then did not maintain. For example, in one classroom the rate of learning was initially addressed through opportunity to advance to subsequent problems without pacing from the teacher. After five minutes, however, the rate of learning slowed to the pace of the struggling students, one problem was presented at a time, and students who were ready to move on were not able to do so.

Despite some areas of success, overall, rate and level was not consistently evident in the classrooms that Department staff observed.

Department staff concluded that one cause of the failure to meet the rate and level needs of the TAG identified students was some misunderstanding or lack of training on how to assess rate and level. Both the classroom observations and the teacher survey responses indicate that not all of the District's teachers understand how to determine rate and level, how to appropriately use data to determine rate and level, and how often to assess rate and level.

Department staff concluded that another cause of the failure to meet the rate and level needs of the TAG identified students was that teachers did not have consistent access to information about which students in a given class were TAG identified. This conclusion was supported in part by the results of a survey conducted of District staff. Teacher responses to that survey indicate that District teachers do not always know which of their students are TAG identified and do not always know how to access a roster of TAG students each year. If teachers do not know which students are TAG identified, those teachers cannot provide those students with a plan of instruction at her or his rate and level of learning whenever appropriate to that particular student's TAG identification

Department staff also conducted a survey of parents of TAG identified students. School districts are required to provide an opportunity for parents of TAG identified students to provide input to and discuss the programs and services to be received by their child. OAR 581-022-1320. Fourteen parents responded to the Department's survey. The majority of parents that responded stated that they were not informed of the TAG services and programs available to their students and were not given an opportunity to suggest or discuss ways to meet their student's individual needs. Moreover, the majority of parents that responded stated that they had not received a copy of their student's TAG learning plan as required by District policy.

The Department's survey is not sufficient to support a finding that the District is out of compliance on OAR 581-022-1320. Rather it is instructive to the Department's inquiry on OAR 581-022-1330(4) because implementation of the requirement for parent discussion and input would result in improved understanding on the part of teachers who lead or participate in those discussions.

Finally, there was some misconception, expressed by some teachers and some parents, that an enrichment class or an Advanced Placement class is, standing alone, sufficient to meet the rate and level requirements. The rules requires appropriate instruction. Access to enrichment classes may be helpful but does not ensure that rate and level will be met and therefore does not meet the requirement on its own. Advanced Placement classes typically have a faster rate than other classes and they tend to have more advanced content. They may also require students to use higher-level thinking and performance. However, enrollment in an Advanced

Placement class does not automatically show that a TAG student's rate and level of learning are being addressed. The classroom teacher must still monitor the student's academic needs to assure that his or her rate and level of learning are being appropriately addressed in the classroom instruction.

FINDINGS

1. The District does not currently meet the minimum standards for ensuring that all TAG identified students receive instruction that is designed to accommodate the individual students' assessed levels of learning and accelerated rates of learning as required by OAR 581-022-1330(4).

NECESSARY CORRECTIVE ACTION

The District must submit a Corrective Action Plan that is approved by the Deputy Superintendent no later than June 15, 2017. The Corrective Action Plan must outline the District's plan to ensure compliance with OAR 581-022-1330(4) before the beginning of the 2017-18 school year, unless an extension is granted by the Deputy Superintendent. The Corrective Action Plan must include specific discussion of the following elements:

1. Professional Development for teachers around how to effectively use rate and level in the classroom;
2. Improving and ensuring access for all teachers to information about which students in a teacher's class have been TAG identified and the contents of the identified students' individual TAG plans; and
3. Implementing a consistent opportunity for parents to review their student's TAG plan, discuss, and provide input to the classroom teacher.

ODE staff will reach out to the District to offer technical assistance on the Corrective Action Plan.

If the District fails to submit a Corrective Action Plan by June 15, 2017, the District may not receive further State School Fund moneys until a plan acceptable to the Deputy Superintendent is submitted.

CONCLUSION

A Corrective Action Plan, approved by the District's school board, is due to the Department by June 15, 2017. Upon approval of the plan, the District will be categorized as a "conditionally standard school."

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Upon successful implementation of the approved Corrective Action Plan, the District will be re-established as a "standard school."

In the event the plan is not fully implemented by the beginning of the 2017-18 school year, and the District does not receive an extension of time, the Deputy Superintendent may withhold a portion of State School Funds until such deficiencies are corrected.

If the District fails to submit a Corrective Action Plan as required by this Order, then the District will be categorized as a "nonstandard school" and by law the Deputy Superintendent must withhold state school funds.

Respectfully,



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RECONSIDERATION AND APPEAL RIGHTS: You are entitled to ask the Department to reconsider this Order. A request for reconsideration must be made in writing to Deputy Superintendent of Public Instruction Salam Noor within 60 days of the date of this Order. You are also entitled to seek judicial review of this order. Judicial review may be obtained by filing a petition for review with the Circuit Court for Marion County or the circuit court for the county in which the petitioner resides or has a principal place of business within 60 days from the service of the final order or an Order on a request for reconsideration. Judicial review is pursuant to ORS 183.484.