

**Oregon Administrative Rules effective March 1, 2014**

**Department of Transportation, Transportation Safety Division (TSD)**

**Division 15  
Traffic Safety Education**

**737-015-0010**

**Purpose**

The purpose of the rules in division 15 is to implement ORS 802.345 by:

- (1) Establishing a curriculum for a traffic safety education course under ORS 336.800;
- (2) Establishing a procedure to certify that a traffic safety education course meets the curriculum standards;
- (3) Establishing qualifications for a person to teach a traffic safety education course;
- (4) Establishing rules for the administration of ORS 336.805 and 336.810, relating to recordkeeping for and reimbursement and distribution of funds in the Student Driver Training Fund, including reduced tuition for low-income pupils; and
- (5) Establishing rules for the administration of ORS 336.790 to 336.815, related to increasing enrollment in underserved areas of the state, and the imposition of sanctions against a provider of a traffic safety education course that has violated a provision.

Stat. Auth.: ORS 184.616, 184.619, 802.345

Stats. Implemented: ORS 336.790, 336.800, 336.805, 336.810, 802.110, 802.345, 807.065

**737-015-0020**

**Definitions**

As used in division 15 rules, unless the context otherwise requires:

- (1) “Adaptive Strategy” means a program element that may be altered to help support and promote driver education in underserved areas of the state.
- (2) “Approved Course” also “Approved Program” means a traffic safety education course or program conducted by an approved provider.
- (3) “Approved Instructor” also “Instructor” means a teacher who holds a valid approved instructor certification card. An approved instructor has successfully completed required training and meets minimum requirements set forth in OAR 737-015-0070.

(4) “Approved provider” also “provider” is a private school, public school, commercial driver training school or county that has been granted approval by ODOT-TSD to provide instruction using a Division-approved curriculum by instructors who have completed a Division-approved instructor course of study. A provider is responsible for all aspects of the program and is required to maintain required records, whether or not instruction is contracted.

(5) “Behind-the-wheel” instruction means the portion of the approved course that requires the student to be located behind the steering wheel of a dual control equipped motor vehicle or a simulated vehicle, operating it either in real or simulated traffic situations, through the direct guidance of a driver education instructor.

(a) Four hours of simulation is equal to one hour of behind the wheel instruction.

(b) One hour of operating a motor vehicle is equal to one hour of behind the wheel instruction.

(6) “Cancellation” means to declare the approved provider or instructor status void and obtainable only as defined in OAR 737-015-0010 thru 737-015-0130.

(7) “Classroom instruction” means that portion of an approved course held in the presence of an approved instructor in a classroom situation and does not include time spent in home study, reading outside of class time or break time. Classroom make-up time is subject to the same provisions.

(8) “Commercial Driver Training School” means a privately or publicly owned driver training facility in Oregon that has been issued a School Certificate by DMV to provide student drivers behind-the-wheel instruction, classroom instruction or both, for a fee.

(9) “Completing the course” means completing an ODOT-TSD approved course, with documentation showing 30 hours classroom instruction, 6 hours behind-the-wheel instruction, 6 hours practice driving observation and 5 hours supervised practice.

(10) “Curriculum guide” means a document that describes what the students need to learn and provides a guide for instructors as they prepare for instruction. It is a document that assists traffic safety instructors and district coordinators in meeting the needs of the regulations identified in OAR 737-015-0030.

(11) “Department” or “ODOT” means the Oregon Department of Transportation.

(12) “Division” or “TSD” means the Transportation Safety Division of the Oregon Department of Transportation. A reference to the Division or TSD may include its designee.

(13) “DMV” means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(14) “Driver Improvement Violation means:

(a) One conviction for an offense listed in OAR 735-064-0220;

(b) Five convictions for an offense listed in OAR 735-072-0035; or

(c) A Preventable Accident.

(15) “Driving simulator” means an electromechanical device designed to represent the driver’s compartment of the automobile and with the use of films or video programs attempts to develop judgment, decision-making skills, behavior response, and manipulative skills essential in learning the driving task.

(16) “Eligible student” means a student that is at least 15 years of age, will complete an approved course before reaching 18 years of age, and has a valid instruction driver permit.

(17) “Hours” means clock hours, not including breaks or other time that does not apply to actual instruction.

(18) “Instructor Brake” or “Dual control” means the vehicle is equipped with a foot brake control for both the student driver and the instructor connected either by mechanical or hydraulic means, installed as specified by the manufacturer.

(19) “Lesson plan” means a written outline of the content and method of instruction. Required elements are specified in OAR 737-015-0030(3).

(20) “Practice driving observation” means that portion of an approved course given in a dual control vehicle as the instructor observes the student driver and engages the back seat passengers in discussion of the student driver operation of the motor vehicle.

(21) “Private Provider” means a Commercial Driver Training School that meets approved provider requirements and is in compliance with OAR 737-015-0010 thru 737-015-0130.

(22) “Public Provider” means a public school or county that meets approved provider status and is in compliance with OAR 737-015-0010 thru 737-015-0130.

(23) “Public school” means a common or union high school district, education service district, community college district, or any facility for the deaf operated under ORS 346.010.

(24) “Repeated Violation” means the provider or instructor was notified in writing within three years of the same or a substantially similar deficiency.

(25) “Revocation” means the termination of the authority granted an approved provider or an approved instructor for a specified period, with a new certificate obtainable only as defined under 737-015-0120 or 737-015-0130.

(26) “Sanction” means an action taken by ODOT-TSD against a provider or instructor for non-compliance with Oregon law or ODOT-TSD rule related to traffic safety education.

(27) “Simulation” means the portion of the behind-the-wheel traffic safety education course given in a driving simulator.

(28) “Student Completion Certificate” means an ODOT-TSD issued certificate that serves as proof of an eligible student completing an approved course with a passing score.

(29) “Suspension” means the temporary withdrawal for a specified period of time of the authority to conduct business or perform instructional activities granted under approved provider or approved instructor status.

(30) “Traffic Crime” means a conviction under Oregon statute or city ordinance, or a comparable statute or city ordinance of any other jurisdiction, for any misdemeanor or felony involving the use of a motor vehicle that may result in a jail sentence.

(31) “Traffic safety education” means a course consisting of classroom instruction, practice driving, and practice driving observation, all devoted to educating teen student drivers in safe and proper driving practices.

(32) “Valid instruction driver permit” means an instruction permit issued by the State of Oregon under ORS 807.280 or an interim driver card issued by the State of Oregon under 807.310 that is in the student’s name and is not expired, canceled, suspended or revoked.

(33) “Warning” means a written correction notice issued by ODOT-TSD that requires corrective action be taken as specified.

Stat. Auth.: ORS 184.616, 184.619, 802.345

Stats. Implemented: ORS 336.790, 336.800, 336.805, 336.810, 802.110, 802.345, 807.065

## **737-015-0030**

### **Curriculum Requirements**

(1) An approved program curriculum must include:

(a) A minimum of 30 hours of classroom instruction not exceeding 6 hours per week or 3 hours per day that includes:

(A) Instructing students about driving on all types of Oregon roads in a positive and courteous manner;

(B) Driver responsibility;

(C) Preparing and controlling the vehicle;

(D) Identification and proper use of signs, signals, markings, and roadway types;

(E) How to enter, use, and exit different types of intersections;

(F) Automobile maneuvers and traffic flow;

(G) Management of time and space using accepted and current practices, including targeting, line of sight/path of travel, model driving habits and reference point concepts;

(H) Defensive driving;

(I) Rules of the road;

(J) How the laws of physics and natural laws affect driving;

(K) How physical, emotional, and psychological conditions affect driving;

(L) Impaired driving; and

(M) Emergency situations.

(b) A minimum of 6 hours of behind-the-wheel instruction not exceeding 90 minutes of driving per day per student not to exceed 120 minutes within 7 consecutive days. Behind-the-wheel instructional objectives must correspond with topics covered during classroom instruction described under (1)(a) of this rule.

(c) A minimum of six hours of practice driving observation not exceeding three hours of observation per day or four hours within seven consecutive days, per student.

(d) A written skill assessment for each student drive that covers all of the following skills, at a minimum:

(A) Positioning a vehicle based on visual referencing skills, space management, fender judgment and road position control;

(B) Procedures and sequencing for vehicle operations from the simple to the complex skill based on vehicle operation control, vehicle maneuvering, vehicle control options, and vehicle balance;

(C) Processing traffic and vehicle information into speed and position changes based on visual skills, space management, vehicle speed control, and control of the road; and

(D) Precision movements for maintaining vehicle control and balance in expected and unexpected situations based on vehicle speed control, vehicle balance, collision avoidance, traction control, response to mechanical failures and traction loss.

(e) During any behind-the-wheel instruction session, the following safety requirements must be met:

(A) Only the student driver operating the vehicle and the instructor shall be seated in the front seats of the vehicle;

(B) All vehicle occupants must use safety belts at all times while operating a vehicle; and

(C) Headlights must be turned on at all times during behind-the-wheel instruction. Because automatic headlights do not illuminate side and tail lights, headlights must be manually turned on even if an automatic switch is present and in use.

(2) An approved program curriculum must include parent, legal guardian, or supervising adult involvement that includes:

(a) A parent meeting; and

(b) A log or other means to demonstrate that a minimum of five hours supervised home practice was conducted during the course. Documentation must be maintained by the provider. Supervised home practice is not counted as part of the classroom, behind-the-wheel, or practice driving observation.

(3) The traffic safety education curriculum guide must be approved by ODOT-TSD prior to program implementation. The provider must review and update the guide every three years thereafter, maintaining a full current master copy. The guide must be available for review by ODOT-TSD on request. The following elements are required:

(a) A written lesson plan for each classroom and each behind-the-wheel session. A provider who has fully adopted the ORPC Playbook is not required to provide additional documentation of classroom lesson plans. The requirement to develop written behind-the-wheel lesson plans remains in effect whether or not the program has adopted the ORPC Playbook. A lesson plan must include:

(A) The title of the lesson or module to be taught;

(B) Prerequisites;

(C) Overall objectives;

(D) Performance objectives;

(E) Materials and resources;

(F) Instructor and student activities;

(G) Time breakdown;

(H) Methods of assessment; and

(I) Assignments.

(b) A flow chart that shows the program's integration between classroom and behind-the-wheel lessons.

(c) A written drive route that supports each behind-the-wheel lesson plan. The drive route cannot duplicate the DMV drive test route.

(d) The final drive route. Every final drive route in use must be pre-approved by ODOT-TSD, along with the associated formal written score assessment form. Any change to a final route or score assessment form must also be pre-approved.

(4) Classroom and behind-the-wheel instruction and practice driving observation must be provided concurrently.

(a) Concurrency means the integration of classroom instruction and behind-the-wheel instruction. For each student, no fewer than 4 and no more than 10 hours of classroom instruction will be completed before beginning behind-the-wheel instruction. Classroom and behind-the-wheel instruction must be well organized and coordinated.

(b) Behind-the-wheel instruction and practice driving observation of a particular skill or behavior may not precede the classroom instruction of that same skill or behavior.

(5) A course may not be completed in fewer than 35 days and no more than 180 days. An extension beyond 180 days may be provided if there is compelling reason dealing with school, family or medical circumstances and has been agreed upon between the provider and parent before completion of the course. Documentation of the agreement must be maintained.

(6) At the end of each course, the provider must issue a Student Completion Certificate to each eligible student who completes the approved course with a passing score. A student must obtain a minimum score of 80% on the final skill assessment to receive a certificate.

(7) Summer Exception -- The classroom portion of a driver education program, required under section (1)(a) of this rule, offered from June through August may be conducted over a shorter period of time and for longer hours. The classroom instruction must be conducted over no less than a 3-week period with no more than 10 hours of classroom instruction per week, not exceeding 3 hours per day. Requirements for the behind-the-wheel portion of the course are unaffected by the exception. A course may not be completed in fewer than 35 days.

(8) With agreement between a parent, legal guardian or supervising adult and the provider, behind-the-wheel instruction may be provided hour for hour in place of practice driving observation. In no case shall behind-the-wheel instruction hours be fewer than 6, and in no case shall the behind-the-wheel instruction hours and practice driving observation hours, combined, be fewer than 12. Time must be accurately documented by date, activity, and the amount of time of each session.

Stat. Auth.: ORS 184.616, 184.619, 802.345

Stats. Implemented: ORS 336.790, 336.800, 336.805, 336.810, 802.110, 802.345, 807.065

**737-015-0035**

**Adaptive Strategies for Underserved Areas**

- (1) A provider that delivers a course in underserved areas may qualify for regulatory incentives.
- (2) A provider that teaches an approved program in a rural or frontier community may qualify for an adaptive strategy to help offset costs associated with delivering a program in underserved areas.
- (3) Rural and frontier communities shall be designated by ODOT-TSD based on mileage and travel time from a community of specific size. Population is based on the most recent census. Mileage and travel time is based on approved mapping software.
- (4) For an approved provider to qualify for an adaptive strategy, classroom sessions must be held within the designated rural or frontier community.
- (5) Only communities designated as rural or frontier shall qualify for adaptive strategies.
- (6) An adaptive strategy may include, but is not limited to, online instruction or video conferencing to substitute for a portion of classroom seat time, increased daily lesson time limits, or course materials provided by ODOT-TSD.
- (7) Applying an adaptive strategy in an area that has not been designated as rural or frontier, or misuse, fraud, or altering the intended use of an adaptive strategy may lead to sanction.

Stat. Auth.: ORS 184.616, 184.619, 802.345

Stats. Implemented: ORS 336.790, 336.800, 336.805, 336.810, 802.110, 802.345, 807.065

### **737-015-0050**

#### **Instructional Materials and Equipment**

- (1) Current traffic safety education instructional materials shall be provided for each student enrolled for classroom instruction, and shall be available to students during the classroom and behind-the-wheel instruction.
- (2) Any motor vehicle used by an approved provider, for the behind-the-wheel instruction portion of a traffic safety education course shall:
  - (a) Be equipped with a dual control;
  - (b) Be maintained in good mechanical condition;
  - (c) Meet the safety and equipment standards of the Oregon Vehicle Code;
  - (d) Be equipped with approved seat belts for the student driver, the instructor and any observing passengers;
  - (e) Be equipped with a functional heater and defroster;

(f) Be equipped with the following emergency equipment: a fire extinguisher; first aid kit in compliance with OR-OSHA Bloodborn Pathogens Standards; and three flares or three approved reflectors;

(g) Be clearly identified with an appropriate sign or signs stating: "Student Driver" or "Dual Control Car, Driver Education" or "Driver Education Car." Such identification must be clearly visible and readable to pedestrians and other traffic;

(h) Be properly registered in Oregon or an adjacent state;

(i) Be covered by insurance as required by the state of Oregon; and

(j) Be equipped with at least the following mirrors:

(A) One mirror on each side of the vehicle, mounted either inside or out, for the use of the instructor and the student while properly seated;

(B) A rear view mirror for the use of the driver; and

(C) An instructor eye check mirror to monitor eye movements of the student driver.

(D) An instructor rear view mirror.

(3) Headlights must be in use at all times -- low or high beam, as appropriate -- during behind-the-wheel instruction.

Stat. Auth.: ORS 184.616, 184.619 & 802.345

Stats. Implemented: ORS 336.800, 336.805, 336.810, 802.110, 802.345 & 807.065

Hist.: TSS 1-2000(Temp), f. 2-11-00, cert. ef. 3-1-00 thru 8-27-00; TSS 2-2000, f. 8-10-00, cert. ef. 8-28-00; TSS 2-2001, f. & cert. ef. 8-13-01; TSD 1-2007, f. 3-26-07, cert. ef. 4-1-07

### **737-015-0060**

#### **Use of Driving Simulators**

(1) Not more than one-half of the required hours specified for behind-the-wheel instruction may be given by means of a driving simulator, in accordance with the ratio for driving simulator to behind-the-wheel instruction found in OAR 737-015-0020(4)

(2) Driving simulator instruction may not precede classroom instruction. If offered, simulation must be offered concurrently with classroom instruction beginning September 1, 2008.

(3) An instructor must complete a workshop in driving simulation operation and application before providing instructions on the driving simulator.

(4) Documentation of the completed workshop must be kept in the instructor's file.

Stat. Auth.: ORS 184.616, 184.619 & 802.345

Stats. Implemented: ORS 336.800, 336.805, 336.810, 802.110, 802.345 & 807.065

Hist.: TSS 1-2000(Temp), f. 2-11-00, cert. ef. 3-1-00 thru 8-27-00; TSS 2-2000, f. 8-10-00, cert. ef. 8-28-00; TSD 1-2007, f. 3-26-07, cert. ef. 4-1-07

### **737-015-0070**

#### **ODOT-TSD Approved Instructor Qualifications, Certification and Renewal**

(1) A valid approved instructor certification card issued by ODOT-TSD is required to teach, conduct classes, give demonstrations or supervise the practice of students in an approved program.

(2) An instructor must obtain a corrected approved instructor certification card if there is a change to any of the information printed on the card.

(3) To be eligible for an approved instructor certification card, or to renew a certification card, an individual must:

(a) Submit to ODOT-TSD a completed application on a form provided by the Division;

(b) Be 21 years of age, or older;

(c) Have completed and passed the required instructor training series;

(d) Have valid Oregon driving privileges or valid driving privileges from a state adjacent to Oregon, if the individual is a legal resident of that state and has had valid driving privileges for at least three years preceding the date an application is submitted to ODOT-TSD. To be valid, driving privileges may not be suspended, revoked, canceled, or otherwise withdrawn for a traffic crime as defined in 737-015-0020(30). For purposes of these OAR 737 division 15 rules, a hardship or probationary permit does not constitute valid driving privileges;

(e) With initial application, provide a DMV five-year certified court print driving record dated within the past 60 days. An instructor who has not held Oregon driving privileges for the five-year period is required to submit a certified driving record from a jurisdiction or foreign government that issued driving privileges during that period. The record must meet the following requirements:

(A) Not more than one driver improvement violation within the preceding 12 months or more than 2 driver improvement violations in the preceding 24 months;

(B) No alcohol or drug related traffic violation, conviction or infraction within the preceding five years; and

(C) No driver's license suspension, cancellation, revocation or denial within the preceding three years.

(f) Have current first aid and CPR Certification;

(g) Submit a release authorizing ODOT-TSD to obtain the applicant's criminal history report. Criminal history records will only be used to determine instructor qualification and may be used as evidence in any contested case hearing or appeal, as described in section 737-015-0130 of this rule. Such records will otherwise be kept confidential and not released to any individual unless ODOT-TSD determines a record, or any portion thereof, must be released pursuant to the Public Records Law, ORS 192.410 to 192.505, or the Attorney General or a court order disclosure in accordance with the Public Records Law.

(h) Not have a conviction for any of the following crimes:

(A) A traffic crime as defined by OAR 737-015-0020(30). This subsection does not apply if the conviction occurred more than five years preceding the date an application for approved instructor certification is submitted;

(B) Kidnapping or custodial interference as defined in ORS 163.225 through 163.257;

(C) Any sexual offense, with or without force, any offense related to child pornography, or compelling or promoting prostitution;

(D) Any crime involving injury or threat of injury to another individual;

(E) Any crime involving theft, forgery, fraud, falsifying or tampering with records, or racketeering; or

(F) Any crime relating to the unlawful possession, use, sale, manufacture, or distribution of controlled substances or alcoholic beverages; and

(i) Not engage in conduct that is substantially related to the individual's fitness to be an instructor or that demonstrates unfitness or inability to perform the responsibilities of an instructor. ODOT-TSD will determine from the facts of the conduct, and the intervening circumstances known to ODOT-TSD, if the individual is fit to perform the responsibilities of an instructor or poses a risk to the safety of others while performing those responsibilities.

(4) An instructor must be re-certified every two years. To be eligible for renewal the instructor must submit to ODOT-TSD a completed renewal application and provide documentation of the following:

(a) A minimum of 15 hours of continuing education within the previous two years. This professional development training may be obtained through an approved provider, state agency, college or university or professional education organization. Professional development hours will be accepted for the purpose of enhancing instructional knowledge and skills in support of teaching driver education best practices;

(b) A minimum of 30 hours of classroom, behind-the-wheel or simulator instruction in a Division-approved program within the previous two years;

(c) Current first aid and CPR Certification. This is not included in the 15 hours of continuing education; and

(d) Out-of-state instructors are responsible for annually obtaining a certified driving record from the jurisdiction or foreign government that issued driving privileges during that period.

(A) The driving record must be submitted to the employer for review and to maintain with records.

(B) A copy of the record, dated within the past 60 days, must also be submitted as part of the renewal application.

(5) An individual is not eligible for approved instructor certification and may not be permitted to renew or maintain approved instructor certification if:

(a) The individual's driving record does not meet minimum requirements as described under (3) of this rule.

(b) The individual's driving privileges are revoked as a habitual offender under ORS 809.600 or any equivalent action in another jurisdiction. This section shall apply if the instructor's driving privileges were revoked as a habitual offender and have not been restored under ORS 809.660 or its equivalent in another jurisdiction at least five years prior to the date an application for approved instructor certification is submitted.

(c) The individual is enrolled or participating in a DUII diversion program including an equivalent diversion program in another jurisdiction. This section will apply if the individual was enrolled or participated in a diversion program anytime within the five years preceding the date an application for approved instructor certification is submitted.

(d) The individual has had a suspension of driving privileges under a driver improvement program, including an equivalent driver improvement program in another jurisdiction. This section will apply if the suspension occurred within the last three years preceding the date an application for approved instructor certification is submitted.

(e) The individual refuses to take a breath or blood test in accordance with ORS 813.100 or any equivalent violation in another jurisdiction. This section will apply if the individual refused a breath test anytime within five years preceding the date an application for approved instructor certification is submitted.

(f) The individual fails to pass a breath or blood test in accordance with ORS 813.100 or an equivalent violation in another jurisdiction. This section will apply if the individual fails a breath test anytime within five years preceding the date an application for approved instructor certification is submitted to ODOT-TSD.

- (g) The individual's approved instructor certification is suspended, revoked, canceled, restricted or withdrawn, or a similar sanction in another jurisdiction, on the date the application for approved instructor certification is submitted to ODOT-TSD.
- (h) The individual has a conviction for any of the crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if convicted in another jurisdiction.
- (i) The individual has a physical or mental condition or impairment affecting the person's ability to teach, give demonstrations, or supervise the practice of student drivers in a motor vehicle.
- (6) An applicant who has been convicted of a crime listed in 737-015-0070(3)(h) may include an explanation or evidence of intervening circumstances since the conviction. ODOT-TSD will determine if the intervening circumstances of the conviction are such that the conviction affects the individual's fitness to be an Instructor.
- (7) An individual whose driver license has been suspended, cancelled, revoked or denied as described in section (3)(e) of this rule may include an explanation or evidence of intervening circumstances. ODOT-TSD will consider intervening circumstances when making a determination.
- (8) ODOT-TSD may request additional information from an applicant. Additional information may include, but is not limited to, documentation regarding the intervening circumstances of a conviction, suspension, cancellation, revocation, or denial. ODOT-TSD will determine if the intervening circumstances of the conviction are such that the conviction affects the individual's fitness to be an instructor.
- (9) Criteria described in this rule may provide grounds for suspension, cancellation, revocation, restriction or denial as described in 737-015-0120 if an instructor fails to remain qualified as prescribed under this rule.
- (10) An applicant will be refused approval to provide traffic safety education or a current approval will be suspended or revoked if the applicant or instructor has his or her driver license or privilege suspended or revoked or canceled for any reason or is involved in the DMV Driver Improvement Program or has exceeded two driver improvement violations in a two-year period or has any alcohol or drug related traffic violation, conviction or infraction.
- (11) Approval to provide traffic safety education may be granted upon reapplication when the approved instructor's driver license or privilege in Oregon has been reinstated in full for three years or one year has passed since the last Driver Improvement Program entry on the driving record or five years have passed since an alcohol or drug related traffic violation, conviction or infraction.
- (12) Opportunities for reinstatement and appeal are available according to provisions equivalent to those specified in ORS 342.175(4) and 342.180.

Stat. Auth.: ORS 184.616, 184.619 & 802.345

Stats. Implemented: ORS 336.790, 336.800, 336.805, 336.810, 802.110, 802.345 & 807.065

## **737-015-0074**

### **Instructor Responsibilities**

- (1) An approved instructor must meet all requirements of his or her employer.
- (2) An instructor must:
  - (a) Meet all instructor qualifications set forth in OAR 737-015-0070 when teaching in an approved program.
  - (b) Provide a copy of a valid approved instructor certification card to an employer prior to teaching an approved course for that employer.
  - (c) Provide student training that meets the curriculum requirements set forth in OAR 737-015-0030.
  - (d) Accurately complete all applicable student driver records required under OAR 737-015-0090.
  - (e) Adhere to the Code of Ethics and Rules of Conduct set forth in OAR 737-015-0080.
  - (f) Comply with all statutes, administrative rules and regulations relating to an approved instructor.
  - (g) Notify ODOT-TSD by mail or facsimile within 24 hours, excluding state holidays or weekends of any:
    - (A) Notice of civil legal action filed against the instructor related to acting as an instructor; or
    - (B) A conviction for an offense described in OAR 737-015-0070(3)(h); and
    - (C) If requested, respond to ODOT-TSD in writing by facsimile or mail within 10 calendar days (excluding weekends and state holidays) to any complaint received by ODOT-TSD.
- (3) An instructor may not:
  - (a) Teach an approved course without valid approved instructor certification;
  - (b) Transfer his or her approved instructor certification to any other individual;
  - (c) Allow any student to operate a motor vehicle without a valid driver license or instruction permit;

(d) Allow any student to participate in classroom instruction or behind-the-wheel instruction if the instructor has reason to believe the student driver is under the influence of an intoxicant;

(e) Provide classroom instruction or behind-the-wheel instruction if the instructor is under the influence of an intoxicant; or

(f) Teach if the instructor has a physical or mental condition or impairment that affects the individual's ability to teach, give demonstrations, or supervise the practice of student drivers in a motor vehicle.

Stat. Auth.: ORS 184.616, 184.619, 802.345

Stats. Implemented: ORS 336.790, 336.800, 336.805, 336.810, 802.110, 802.345, 807.065

### **737-015-0076**

#### **Provider Responsibilities**

(1) On initial application for approval, a provider must submit the following:

(a) Curriculum, including lesson plans, drive routes, and skill assessment forms;

(b) Certification numbers for all instructors who will be permitted to teach the approved program;

(c) The course's final drive route and assessment form; and

(d) Required recording and reporting forms, as provided by ODOT-TSD.

(2) A provider must complete and return, when warranted, all required recording and reporting forms supplied by the Division before or on the required dates.

(3) A provider may not begin a course until the provider has been granted approved provider status by ODOT-TSD.

(4) Any subsequent changes to the final drive route or score assessment form must be pre-approved by ODOT-TSD.

(5) Each approved provider must appoint an individual responsible for ensuring that all driver education requirements are met and to be the contact person with the Division.

(6) Each approved provider must adopt written policies that include:

(a) Enrollment criteria;

(b) Student fees and refunds;

(c) Course failures and repeats; and

(d) Minimum and maximum course duration.

(7) Each approved provider must submit in writing all reportable motor vehicle accidents that involve a driver education motor vehicle to the Division within three working days of the accident. If a police report has been prepared, it must also be provided.

(8) An approved provider must:

(a) Notify ODOT-TSD by mail or facsimile within 10 days (excluding weekends and state holidays) of any of the following:

(A) The provider no longer meets or maintains the requirements set forth in OAR 737-015-0010 thru 737-015-0130.

(B) An instructor employed by the provider who no longer meets or maintains qualifications, responsibilities or requirements set forth in OAR 737-015-0070, including an explanation of why the instructor no longer meets the qualifications, responsibilities or requirements.

(b) Annually obtain a driving record from each out-of-state instructor. The certified driving record must be issued by the jurisdiction or foreign government that issued driving privileges during that period. The provider shall carefully review the record for compliance with Oregon Administrative Rule and maintain a copy with instructor records;

(c) Establish procedures that reasonably ensure no instructor or student is under the influence of any intoxicant during classroom or behind-the-wheel instruction;

(d) Comply with all statutes, administrative rules, and regulations related to an approved driver education program provider;

(e) Adhere to the Code of Ethics and Rules of Conduct set forth in OAR 737-015-0080;

(f) Authorize only an individual who has provided a copy of a valid approved instructor certification card to provide classroom or behind-the-wheel instruction to a student; and

(g) If requested, respond to ODOT-TSD by mail or facsimile within 10 calendar days (excluding weekends and state holidays) to any complaint received by ODOT-TSD.

(9) An approved provider may not permit any individual to:

(a) Conduct classroom or behind-the-wheel instruction with a student not in possession of a valid driver license or instruction permit.

(b) Provide behind-the-wheel instruction to any student on a driving route specifically used by DMV to test applicants for Oregon driving privileges;

(c) Allow an instructor who does not have current, valid driving privileges to conduct classroom or behind-the-wheel instruction.

(d) Allow an instructor who has not provided a copy of a valid approved instructor certification card to teach an approved course.

Stat. Auth.: ORS 184.616, 184.619, 802.345

Stats. Implemented: ORS 336.790, 336.800, 336.805, 336.810, 802.110, 802.345, 807.065

## **737-015-0085**

### **Code of Ethics and Rules of Conduct**

(1) Each provider and instructor accepts the responsibilities and requirements of the driver education profession and must adhere to the highest ethical standards of professional conduct.

(2) To fulfill their obligations to the public and to ODOT-TSD, the provider and instructor must:

(a) Recognize that the instruction and training of student drivers is a position of trust;

(b) Exhibit competence and wisdom in conducting professional responsibilities;

(c) Uphold and obey the law, including but not limited to the provisions of the Motor Vehicle Code; and

(d) Maintain and uphold the highest educational standards possible for instructing and training student drivers.

(3) A provider or instructor may not engage in or knowingly allow any owner, administrator, manager, or employee of an approved program to engage in any of the following:

(a) Assist or knowingly allow a student driver to fraudulently obtain driving privileges for which the student driver is ineligible or has not qualified;

(b) Discriminate against a student because of race, religion, national origin, size, disability, age, sex, or sexual orientation;

(c) Have sexual contact with, or request sexual contact from, a student;

(d) Make sexual advances either verbally or physically or request sexual contact from any student, whether directly, indirectly or by innuendo;

(e) Use physical force or a threat of physical force against a student driver, unless such force or threat is necessary to avoid immediate danger to the safety of the student driver, the provider, or instructor, an employee of the school, a passenger in a vehicle being used for behind-the-wheel instruction, or the general public;

(f) Possess any unlawful controlled substance or intoxicating beverage or be under the influence of any intoxicating beverages, drugs or controlled substances while training or instruction is being provided to students; or

(g) Falsify any document or make a misrepresentation on an application or record.

Stat. Auth.: ORS 184.616, 184.619, 802.345

Stats. Implemented: ORS 336.790, 336.800, 336.805, 336.810, 802.110, 802.345, 807.065

## **737-015-0090**

### **Recordkeeping**

(1) The approved provider must maintain the following records:

(a) A record for each student who begins, regardless of whether or not the student completes, an approved course including:

(A) The dates of the course, including beginning and end date;

(B) The final grade achieved, if course is completed;

(C) Verification that the student had a valid instruction driver permit on the first day of class;

(D) The student's mailing address;

(E) The student's progress, both in-car and in the classroom;

(F) A record of five hours supervised home practice;

(G) Evaluation results, including written skill assessments;

(H) Attendance and time involvement for classroom and in-car lessons. Documentation must include date and amount of time a student participated in each lesson.

(I) Records must clearly show a minimum of 30 hours classroom instruction, 6 hours behind-the-wheel instruction, 6 hours practice driving observation and 5 hours supervised practice. Makeup sessions must be clearly documented with the date and amount of time.

(b) A record for all instructors, including current and past instructors, who have conducted the classroom or behind-the-wheel portion of a traffic safety course. Instructor records must include:

(A) A copy of a valid approved instructor certification card issued by ODOT-TSD during the period of time the instructor taught for the employer;

(B) Hire date; and

(C) Date of separation, if applicable.

(c) The curriculum guide currently in use;

(d) A copy of all accident reports for reportable accidents relating to a driver education motor vehicle owned or operated by the approved provider;

(e) Written policies and procedures required by OAR 737-015- 0076 and ORS 336.805;

(f) Record of the tuition and other fees charged and received from a student; and

(g) Income, expenditure and reimbursement records, including backup documentation, that support the request for reimbursement as provided by ORS 336.805 and as required by OAR 737-015-0100 and 737-015-0105.

(2) Records must be retained for three years for instructors and five years for all other program records.

Stat. Auth.: ORS 184.616, 184.619, 802.345

Stats. Implemented: ORS 336.790, 336.800, 336.805, 336.810, 802.110, 802.345, 807.065

### **737-015-0100**

#### **Subsidy for Approved Courses**

(1) ODOT-TSD will reimburse approved providers for traffic safety education courses that meet the requirements of OAR 737-015-0010 through 737-015-0130.

(2) Approved public providers amount of reimbursement shall not be greater than the net cost of conducting the course, nor shall it exceed \$210 per pupil completing the course, except as defined in 737-015-0035 or 737-015-0105. In no case shall the public provider receive more than its eligible expenses less tuition received.

(3) Approved private providers amount of reimbursement shall not be greater than the net actual cost of conducting the course, plus a profit of not more than 12% of the net actual cost of conducting the course, unless under contract to a public provider; but in no event shall it exceed \$210 per pupil completing the course, except as defined in 737-015-0035 or 737-015-0105.

(4) If funds available to ODOT-TSD for the Student Driver Training Fund are not adequate to pay all approved claims in full, approved providers will receive a pro rata reimbursement based upon the ratio of the total amount of funds available to the total amount of funds required for maximum allowable reimbursement. Calculation for pro rata reimbursement will be as follows: the total amount of funds available in the Student Driver Training Fund will be divided by the statewide total number of students eligible for reimbursement. This calculation will generate a prorated per student amount. Each approved provider's reimbursement will be determined by multiplying the prorated amount times the number of eligible students claimed by the approved provider.

(5) Accurate and complete records of the revenue and cost of conducting an approved course must be kept by the approved provider in accordance with generally accepted accounting principles, and reports must be submitted to ODOT-TSD by each approved provider seeking reimbursement on Division-approved reimbursement forms. All student fees must be received by the approved provider seeking reimbursement.

(6) Distribution of funds available in the Student Driver Training Fund shall be made no more than once a month by the ODOT-TSD Administrator based on the reimbursement form submitted by the approved provider.

(7) ODOT-TSD will reimburse costs of approved courses that comply with OAR 737-015-0010 to 737-015-0130.

(8) Approved providers shall receive reimbursement only for eligible students who have completed the approved course prior to issuance of their Oregon provisional driver license, have not reached the age of 18, and have not been previously claimed for reimbursement.

Stat. Auth.: ORS 184.616, 184.619, 802.345

Stats. Implemented: ORS 336.790, 336.800, 336.805, 336.810, 802.110, 802.345, 807.065

### **737-015-0105**

#### **Income-Based Subsidy for Approved Courses**

(1) As used in this rule, “Low income student” means a student whose household meets income eligibility guidelines for a benefit program administered by an Oregon state or federal agency that is selected by ODOT-TSD.

(2) ODOT-TSD may reimburse approved providers for traffic safety education courses that meet the requirements of OAR 737-015-0010 through 737-015-0130 in an amount above and apart from reimbursement authorized in OAR 737-015-0100 as defined in this rule.

(3) Approved providers may offer discounted tuition to low income students. If an approved provider has reduced the regular tuition cost based on income eligibility, TSD may reimburse the approved provider up to \$75 per student.

(4) An approved provider who has granted discounted tuition to a qualified low income student must complete the appropriate portion of the provided reimbursement form to obtain subsidy under this rule.

(5) The total for reimbursements under OAR 737-015-0100 and 737-015-0105 combined may not exceed the provider’s eligible expenses less tuition received, except as described for private provider profit margin as described in 737-015-0100(3).

(6) The provisions of this rule are suspended if the Student Driver Training Fund reimbursement funds become prorated, as in 737-015-0100(4)

(7) Unless explicitly stated herein, all conditions stated under 737-015-0100 apply to this rule.

Stat. Auth.: ORS 184.616, 184.619, 802.345

Stats. Implemented: ORS 336.790, 336.800, 336.805, 336.810, 802.110, 802.345, 807.065

## **737-015-0110**

### **Inspection and Investigation**

(1) As used in this rule, “Inspection” means the Division’s inspections of approved providers performed on-site to ensure that providers are in compliance with OAR 737-015-0010 through 737-015-0130.

(2) ODOT-TSD may periodically inspect all approved providers to determine compliance with laws and rules pertaining to the operation of the approved provider’s program and instructor certification requirements. Approved providers must make all elements of the program available for inspection by a TSD inspector. Inspections will be scheduled with prior notice.

(a) Inspections may include examination of:

(A) Student driver records for which division approved driver training was conducted by the provider regardless of whether the student driver completed or failed to complete the school’s driver training course;

(B) Qualifications of current or former instructors;

(C) Curriculum, written policies and all records or items ODOT-TSD deems necessary to ensure that the program is complying with all applicable provisions of law, such as classroom and behind-the-wheel instructor observations, vehicle equipment, vehicles and instructional materials; and

(D) Financial and fiscal information used to determine the reimbursable costs and profit as outlined in 737-015-0100 and 737-015-0105.

(b) A provider must assure that all requested equipment, materials, records, vehicles and other program elements are available to the inspector.

(c) A provider must gather all records at the location of the inspection. Exceptions must be requested in advance and may be granted on a case-by-case basis.

(d) Records that are unavailable at the time of inspection must be delivered to ODOT-TSD within 10 days.

(3) ODOT-TSD may copy or require the facility to submit copies of any program materials, records, or information.

(4) A sanction may be imposed on a provider that does not fully cooperate with an inspection.

(5) An ODOT-TSD representative will prepare a written report of each inspection. A copy of the ODOT-TSD representative’s report, including required corrective action, will be sent to the provider.

(6) Approved providers must correct any deficiency identified by an ODOT-TSD inspector during an on-site inspection within 30 calendar days of the date of the inspection. Until a corrective action report is received by ODOT-TSD, approved providers may not be eligible for reimbursement. When non-compliance of rules continues beyond 30 days, sanctions may be imposed pursuant to OAR 737-015-0120.

(7) ODOT-TSD may conduct re-inspection for the purpose of reviewing corrections, with or without prior notice.

(8) ODOT-TSD may investigate any complaint it receives about an approved provider or instructor. The authorized provider or provider's employees must cooperate with ODOT-TSD during the investigation. If requested by ODOT-TSD, the approved provider must provide a written response to the complaint within 10 working days by either mail or facsimile from the date ODOT-TSD notifies the provider of the complaint. ODOT-TSD will prepare a written report of each investigation.

(a) A copy of the ODOT-TSD report, including any corrective action or sanction, will be sent to the provider.

(b) The provider must correct any deficiencies identified during the investigation and provide ODOT-TSD with a detailed corrective action report addressing each deficiency within timelines set by ODOT-TSD.

(c) When a complete corrective action report has not been received within the required timeline or non-compliance of rules continues a sanction may be imposed pursuant to OAR 737-015-0120.

Stat. Auth.: ORS 184.616, 184.619, 802.345

Stats. Implemented: ORS 336.790, 336.800, 336.805, 336.810, 802.110, 802.345, 807.065

### **737-015-0120**

#### **Provider and Instructor Sanctions**

(1) ODOT-TSD may impose sanctions when it determines a provider has violated any provision of ORS 336.790 to 336.815, or administrative rules promulgated by ODOT-TSD.

(2) In determining an appropriate sanction, ODOT-TSD may consider the following criteria:

(a) The severity of the violation;

(b) The impact of the violation on pupils or public safety;

(b) The number of similar or related violations by the provider;

(c) Whether the violation was willful or intentional; or

(d) The history of prior sanctions imposed by ODOT-TSD.

(3) ODOT-TSD may impose progressive sanctions, when it determines violations have occurred or are occurring,

(a) Progressive sanctions begin with a written warning. If deficiencies remain uncorrected, or a complete corrective action report has not been submitted, sanction severity will increase.

(b) Sanctions may include one or more of the following:

(A) Written warning, including a correction notice or report;

(B) Reduction or denial of reimbursement;

(C) Suspension, cancellation, restriction or denial up to one year; or

(D) Revocation of approved status and the right to apply or renew the approved status for up to five years.

(4) ODOT-TSD reserves the right to impose additional sanctions to protect a student, the public or public funds. Sanctions may include, but are not limited to:

(a) Reimbursement of fees paid by students

(b) Delay of a provider's reimbursement

(5) Reasons to sanction a driver education program provider or instructor include, but are not limited to, the following:

(a) Misrepresenting information to obtain subsidy;

(A) Misrepresenting expenses or revenue;

(B) Claiming unauthorized expenses;

(C) Submitting a false reimbursement request; or

(D) Misrepresenting program location or delivery to receive additional benefit.

(b) Misrepresenting information to obtain approved provider or approved instructor status:

(A) Misrepresenting the program or its delivery;

(B) Misrepresenting qualifications;

(C) Failing to maintain eligibility requirements; or

(D) Falsely claiming to correct program deficiencies.

- (c) Knowingly making a false statement or representation for the purpose of obtaining benefit for self or others;
  - (d) Failing to abide by terms or conditions of an approved program;
  - (e) Failing to correct deficiencies, or to provide a complete corrective action report addressing each deficiency, within stated timelines;
  - (f) Failing to abide by applicable OAR or ORS;
  - (g) Failing to submit required forms or information by the due date;
  - (h) Failing to return an approved instructor certification card when directed to do so; or
  - (i) Issuing a Student Completion Certificate inappropriately.
- (6) Emergency action may be imposed when there is potential for serious harm to the driver education program or any person.
- (7) The provider or instructor may provide ODOT-TSD with evidence of any mitigating circumstances related to 737-015-0110, which may include the opportunity or degree of difficulty to comply.
- (8) ODOT-TSD may revoke its approval of a provider or instructor upon providing five days advance notice when ODOT-TSD determines, through an audit or investigation, that the safety of any person is endangered because of unsafe practices or unsafe equipment.
- (9) When ODOT-TSD takes action to suspend, revoke or cancel an approved provider ODOT-TSD will send notice to the approved provider. The notice will be in writing and state that the suspension, revocation, or cancellation will begin either in five calendar days (an immediate suspension or cancellation) or in 30 calendar days from the date on the notice. The notice will be served by first class mail sent to the current address on record with ODOT-TSD.
- (10) If ODOT-TSD revokes a provider, no individual who owned, operated, or knowingly participated in the violations of the provider at the time of the act may, within five years of the revocation, own, operate or participate in an ODOT-TSD approved program.
- (11) A suspended or revoked provider may not schedule students, accept money or conduct classroom or behind-the-wheel lessons for an ODOT-approved program for the full term of suspension or revocation. In addition, the provider must return any ODOT-TSD issued Student Completion certificates to ODOT-TSD.
- (12) A suspended or revoked provider must refund enrolled students who are monetarily affected by the suspension or revocation.
- (13) When ODOT-TSD takes action to suspend, revoke or cancel an instructor approval ODOT-TSD will send notice to the instructor. The notice will be in writing and state that the suspension, revocation, or cancellation will begin either in five calendar days (for an immediate suspension

or cancellation) or in 30 calendar days from the date on the notice. The notice will be served by first class mail to both the instructor and the provider on record with ODOT-TSD.

Stat. Auth.: ORS 184.616, 184.619, 802.345

Stats. Implemented: ORS 336.790, 336.800, 336.805, 336.810, 802.110, 802.345, 807.065

## **737-015-0130**

### **Appeal Process and Reinstatement**

- (1) A provider or instructor has the right to appeal a sanction or other actions.
- (2) An approved provider or instructor whose approval has been suspended, revoked, or cancelled is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act under ORS 183.413 to 183.500.
- (3) Upon notification of suspension, revocation, cancellation, reduction or denial of reimbursement or any other sanction, a provider or instructor may have the right to a contested case hearing as provided in the Oregon Administrative Procedures Act under ORS 183.413 to 183.500.
- (4) Except as provided for in section (6) of this rule, a request for a hearing must be submitted in writing to, and received by, ODOT-TSD within 20 days of the date of the notice. If a hearing request is received in a timely manner the suspension, revocation or cancellation may not go into effect pending the outcome of the hearing, unless the approval is immediately suspended or cancelled.
- (5) If the approval is immediately suspended or cancelled as set forth in OAR 737-015-0120(9) or (13), the request for hearing must be submitted in writing to, and received by, ODOT-TSD within 90 days of the date of notice of suspension. The suspension or cancellation must remain in effect pending the outcome of the hearing.
- (6) Except as provided in OAR 137-003-0003, when no request for a hearing is received by the deadline, the approved provider or instructor has waived the right to a hearing, ODOT-TSD's file must constitute the record of the case, and a default order must be issued by ODOT-TSD.
- (7) If a provider or instructor approval has been revoked, the provider or instructor may reapply after a period of revocation of five years and must meet all the requirements for approval.
- (8) If the provider or instructor approval is cancelled, the provider or instructor may reapply when they have met all of the requirements.
- (9) At the end of a suspension period, ODOT-TSD will reinstate the provider or instructor approval unless the provider or instructor does not meet the qualification requirements for the approval. If the approval has expired, the provider or instructor must reapply and must meet all the requirements for new certification.

Stat. Auth.: ORS 184.616, 184.619, 802.345

Stats. Implemented: ORS 336.790, 336.800, 336.805, 336.810, 802.110, 802.345, 807.065