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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 715  
HIGHER EDUCATION COORDINATING COMMISSION

**FILED**

03/22/2022 11:37 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Requiring menstrual products be available free of charge at public institutions

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 04/27/2022 5:00 PM

*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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3225 25th Street SE  
Salem, OR 97310

Filed By:  
Karen Howard  
Rules Coordinator

**HEARING(S)**

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

DATE: 04/18/2022

TIME: 2:00 PM - 3:00 PM

OFFICER: Karen Lynne Howard

ADDRESS:

Teleconference only

Salem, OR 97302

**SPECIAL INSTRUCTIONS:**

This public rules hearing will be conducted by teleconference only. The meeting is open to the public: Please dial 1 929-229-5751 and enter the access code 664442780# followed by the # sign. As the presiding officer of the hearing, I will ask for each public participant to state their name, address, and affiliation. Please email me at karen.lynne.howard@hecc.oregon.gov scanned copies any written materials you would like to submit related to the rules for the meeting and for record. Please also send hardcopy written materials to: Higher Education Coordinating Commission, 3225 25th St SE, Salem, OR 97302. Please email me if you have any questions. Sincerely, Karen Lynne Howard

**NEED FOR THE RULE(S)**

In 2021, the Legislative Assembly adopted a new requirement that public institutions of higher education make available, free of charge, certain menstrual products in facilities where educational facilities are offered. The proposed rule implements the requirement.

**DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE**

none

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

A 2021 study of 471 college-age women found that period poverty experiences differed significantly by race. Past-year period poverty was most frequently reported by Latina women (24.5%), followed by Black women (19%), White women (11.7%), and women of another race (10.0%). Experiencing period poverty every month was also most frequently reported by Latina women (17.0%), followed by women of another race (13.3%), White women (9.1%), and Black women (7.6%). The proposed rule is intended to have the effect of reducing period poverty rates amongst public institution-enrolled menstruators, which should disproportionately and advantageously impact Latina and Black women.

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#### FISCAL AND ECONOMIC IMPACT:

The rule reduces, and may eliminate, costs borne by students enrolled in public institutions of higher education for tampons and pads while institutions are in session. This cost is shifted to public institutions, who must additionally in some instances purchase equipment to dispense products to students.

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#### 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).*

(1) The public universities estimate installing dispensers will cost \$431,279 and ongoing supplies will cost \$517,680 per biennia. Community Colleges anticipate \$96,150 in one-time costs and \$709,438 in recurring biennial costs. These costs are a direct result of the legislative mandate.

(2) Cost of compliance effect on small business (ORS 183.336):

(a) The proposed rule amendment would have no economic impact on small businesses.

(b) Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: None

(c) Equipment, supplies, labor and increased administration required for compliance: None

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

The proposed rule amendment would have no economic impact on small businesses.

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

HECC convened a stakeholder group specific to this rulemaking process.

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ADOPT: 715-012-0205

RULE SUMMARY: The rule implements HB 3294 of 2021 as amended by SB 1522 of 2022 requiring menstrual products be available in facilities where educational services are provided to students.

#### CHANGES TO RULE:

##### 715-012-0205

##### Menstrual Product Availability

##### (1) For the purpose of this rule:

(a) Commonly accessible area' means an area within a building accessible to all students who have regular access to such building, and that is not located in an area of the building principally designated for student housing.

(b) Dispenser' means a means a container sufficient to hold menstrual products and can include, for example purposes only, a wall installation, a shelf or counter container, or a drawer, and is not required to be a commercially available dispenser. A dispenser that is not plainly visible to students shall be labeled.

(c) Educational Services' means any service provided by a community college or public university listed in ORS

352.002 directly and primarily available to students in buildings and facilities, including, but not limited to, buildings where classes are held, on-campus student housing, dining, and student support services, and¶

(d) Student Bathroom' means a bathroom located in a building where educational services are provided.¶

(2) Each community college or public university listed in ORS 352.002 shall ensure that both tampons and sanitary pads are available at no cost to students.¶

(3) For the period commencing on the effective date of this rule through June 30, 2022, such products shall be available in no fewer than two student bathrooms in each building used by a public education provider to provide educational services to students. If such building has a gender-neutral student bathroom, at least one dispenser shall be located in such bathroom. If such building has one student bathroom, such products shall be available in that bathroom.¶

(4) For the period commencing July 1, 2022, such products shall be available in all student bathrooms in each building used by a public education provider to provide educational services to students, regardless of the gender designation of such student bathroom.¶

(5) Notwithstanding sections (3) and (4) of this rule, for buildings for which the primary purpose is on-campus student housing, each community college or public university listed in ORS 352.002 shall offer both tampons and sanitary pads in commonly accessible areas of such building.¶

(6) Each community college or public university listed in ORS 352.002 shall offer both tampons and sanitary pads in various sizes throughout campus, but are not required to offer each product in each size in all student bathrooms. Institutions shall make a reasonable effort to ensure that a variety of products are available at all institution-operated sites with qualifying buildings and facilities.¶

(7) Products made available under this rule shall be:¶

(a) Of sufficient quality to meet the medical needs of students, and¶

(b) Unscented.¶

(8) Distributions from the community college support fund and public university support fund, made in accordance with applicable agency rules governing such distributions, may be used to cover costs incurred by institutions under this rule.¶

(9) Each institution of higher education covered under this rule shall provide notification to all students of the availability of such products once during the 2021-2022 academic year, and to newly enrolled students each academic year thereafter.

Statutory/Other Authority: ORS 326.545, as amended by SB 1522 (2022)

Statutes/Other Implemented: ORS 326.545, as amended by SB 1522 (2022)