Chapter 343

2009 EDITION

Special Education Services

GENERAL PROVISIONS

343.035 Definitions

343.041 Supervision of programs for children with disabilities by Superintendent of Public Instruction; rules; complaint procedure; staff training; public agency cooperative agreements

343.045 Criteria for development and operation of special programs; rules

343.055 Administration of programs by Superintendent of Public Instruction; rules; powers of board

343.065 Employment of personnel to supervise types of services for special programs; duties; distribution of training materials

343.085 Tuition prohibited

SPECIAL EDUCATION PROCEDURES

343.146 Determination of eligibility for special education services; evaluation; reevaluation; medical or vision examination; health assessment

343.151 Individualized education program; contents; procedures; review; revision; rules; standard forms; alternate forms

343.155 Procedures to protect rights of child with disability; rules; content of rules

343.157 Duty of school districts to identify, locate and evaluate resident children in need of special education or early intervention

343.159 Requirements for written notice to parents of child with disability; contents of notice; language or mode of communication of parent

343.164 Parental consent requirements for evaluation, reevaluation or placement; revocation of consent

343.165 Circumstances requiring hearing; deadline for requesting hearing; rules; expedited hearing; independent hearing officer

343.167 Result of hearing; effect of procedural violations; deadline for decision; cost of hearing; rules

343.173 Parental right to examine district records; independent evaluation; hearing; costs

343.175 Civil action following hearing; deadline; attorney fees; limitations; reduction of fees

343.177 Educational placement during administrative or judicial proceedings; circumstances where placement may be changed

343.181 Transfer of special education rights to child with disability upon age of majority; notice

343.183 Effect of school district failure to comply; withholding funds; expense of independent evaluation

343.193 Duty to report child with disability not enrolled in special education program; effect of report

ADMINISTRATION OF SPECIAL EDUCATION

343.221 Special education required; district projected activities and cost statement; permitted contracts for services

343.223 Assistive technology devices or services; rules

343.224 School district liability for expense of noneducational care

343.236 State reimbursed or operated local, county or regional programs; rules

343.239 Annual billing for students served by or enrolled in certain programs or school; calculation of amount of billing; notice; payment deadline; distribution of moneys

343.243 Receipt of amount from State School Fund for children enrolled in certain programs; calculation of amount received; disposition of amount received

343.247 Special Education Account

343.261 Instruction of certain hospitalized children; rules

343.285 Use of state funds to match federal funds

343.287 State Advisory Council for Special Education; members; duties; expenses

343.293 Local advisory councils on special education; duties

343.295 Document of successful completion; summary of performance

TALENTED AND GIFTED CHILDREN

343.391 Purpose of ORS 343.391 to 343.413

343.395 Definitions for ORS 343.391 to 343.413

343.396 Nature of programs

343.397 Plan of instruction for talented and gifted children

343.399 State aid to local districts; criteria

343.401 Use of funds appropriated for ORS 343.391 to 343.413

343.404 Funding for program

343.407 Identification of talented and gifted students

343.409 Talented and gifted programs required

343.411 When identification and programs for certain children required or optional; state guidelines

343.413 Short title

SERVICES TO PRESCHOOL CHILDREN WITH DISABILITIES

343.455 Early childhood special education provided by prekindergartens; service requirement

343.465 Policy on services to preschool children with disabilities; agency coordination of services

Note Effect of unavailability of federal funds on programs for preschool children--1993 c.409 §8

343.475 Program of early childhood special education and early intervention services; service areas; primary contractor; voluntary local early childhood system plan; residency; sanctions

343.485 Confidentiality of records; rules

343.495 Operation of early childhood special education or early intervention programs by department

343.499 State Interagency Coordinating Council; appointment; member qualifications; duties; terms; use of federal funds; department's duties; meetings; conflicts

343.507 Local early intervention interagency advisory council; members; officers

343.511 Interagency agreements to provide services; contents

343.513 Eligibility criteria; rules

343.517 Parent-initiated referral to determine eligibility

343.521 Individualized family service plan; rules; forms

343.523 Service coordination requirements for early intervention and early childhood special education

343.527 Requirements for written notice to parents of preschool child with disability; contents of notice; language or mode of communication of parent

343.531 Procedural safeguards; rules

343.533 Transportation service to preschool children with disabilities; cost

343.534 Allocation of state funds to approved providers

APPROPRIATE LEARNING MEDIA FOR BLIND STUDENTS (BRAILLE)

343.565 Definitions for ORS 343.565 to 343.595

343.575 Proficiency in reading and writing for blind student; use of Braille

343.585 Instruction in Braille; individualized education program requirements

343.595 Requirement that textbook publishers supply material in format from which Braille version can be produced

343.600 State policy encouraging use of Braille

DISADVANTAGED CHILDREN

343.650 Definitions for ORS 343.650 to 343.680

343.660 Facilities and services for disadvantaged children

343.670 Advance payment to districts

343.680 Advance payments and reimbursements to districts of at least 40,000 for operation and construction costs

MIGRANT CHILDREN

343.810 Definitions for ORS 343.810 to 343.835

343.830 Summer programs for migrant children

343.835 Reimbursement; district expenditures not subject to Local Budget Law

MISCELLANEOUS PROVISIONS

343.923 Department duties for programs for students with moderate to severe retardation

343.961 Responsibility for costs of education of children in long-term care or treatment; district providing education; notice required before student dismissed from treatment program

343.010 [Repealed by 1965 c.100 §456]

343.020 [Repealed by 1953 c.110 §2]

343.030 [Repealed by 1953 c.110 §2]

GENERAL PROVISIONS

343.035 Definitions. As used in this chapter unless the context requires otherwise:

(1) "Child with a disability" means a school-age child who is entitled to a free appropriate public education as specified by ORS 339.115 and who requires special education because the child has been evaluated as having one of the following conditions as defined by rules established by the State Board of Education:

(a) Mental retardation;

(b) Hearing impairment, including difficulty in hearing and deafness;

(c) Speech or language impairment;

(d) Visual impairment, including blindness;

(e) Deaf-blindness;

(f) Emotional disturbance;

(g) Orthopedic or other health impairment;

(h) Autism;

(i) Traumatic brain injury; or

(j) Specific learning disabilities.

(2) "Decision" means the decision of the hearing officer.

(3) "Determination" means the determination by the school district concerning the identification, evaluation or educational placement of a child with a disability or the provision of a free appropriate public education to the child in a program paid for by the district.

(4) "Developmental delay" means:

(a) Delay, at a level of functioning and in accordance with criteria established by rules of the State Board of Education, in one or more of the following developmental areas:

(A) Cognitive development;

(B) Physical development, including vision and hearing;

(C) Communication development;

(D) Social or emotional development; or

(E) Adaptive development; or

(b) A disability, in accordance with criteria established by rules of the State Board of Education, that can be expected to continue indefinitely and is likely to cause a substantial delay in a child's development and ability to function in society.

(5) "Early childhood special education" means instruction that is:

(a) Free, appropriate and specially designed to meet the unique needs of a preschool child with a disability;

(b) Provided from three years of age until the age of eligibility for kindergarten; and

(c) Provided in any of the following settings:

(A) The home, a hospital, an institution, a special school, a classroom or a community child care setting;

(B) A preschool; or

(C) A combination of a setting described in subparagraph (A) of this paragraph and a preschool.

(6) "Early intervention services" means services for preschool children with disabilities from birth until three years of age that are:

(a) Designed to meet the developmental needs of children with disabilities and the needs of the family related to enhancing the child's development;

(b) Selected in collaboration with the parents; and

(c) Provided:

(A) Under public supervision;

(B) By personnel qualified in accordance with criteria established by rules of the State Board of Education; and

(C) In conformity with an individualized family service plan.

(7) "Individualized education program" means a written statement of an educational program for a child with a disability that is developed, reviewed and revised in a meeting in accordance with criteria established by rules of the State Board of Education for each child eligible for special education and related services under this chapter.

(8) "Individualized family service plan" means a written plan of early childhood special education, related services, early intervention services and other services developed in accordance with criteria established by rules of the State Board of Education for each child eligible for services under this chapter.

(9) "Instruction" means providing families with information and skills that support the achievement of the goals and outcomes in the child's individualized family service plan and working with preschool children with disabilities in one or more of the following developmental areas:

(a) Communication development;

(b) Social or emotional development;

(c) Physical development, including vision and hearing;

(d) Adaptive development; and

(e) Cognitive development.

(10) "Mediation" means a voluntary process in which an impartial mediator assists and facilitates two or more parties to a controversy in reaching a mutually acceptable resolution of the controversy and includes all contacts between a mediator and any party or agent of a party, until such time as a resolution is agreed to by the parties or the mediation process is terminated.

(11) "Order" has the meaning given that term in ORS chapter 183.

(12) "Other services" means those services which may be provided to preschool children with disabilities and to their families that are not early childhood special education or early intervention services and are not paid for with early childhood special education or early intervention funds.

(13) "Parent" means the parent, person acting as a parent or a legal guardian, other than a state agency, of the child or the surrogate parent. "Parent" may be further defined by rules adopted by the State Board of Education.

(14) "Preschool child with a disability" means a child from:

(a) Birth until three years of age who is eligible for early intervention services because the child is experiencing developmental delay or has a diagnosed mental or physical condition that will result in developmental delay; or

(b) Three years of age to eligibility for entry into kindergarten who needs early childhood special education services because the child is experiencing developmental delay or because the child has been evaluated as having one of the conditions listed for a school-age child under subsection (1) of this section.

(15)(a) "Related services" means transportation and such developmental, corrective and other supportive services as are required to assist a child with a disability to benefit from special education, including:

(A) Speech-language and audiology services;

(B) Interpreting services;

(C) Psychological services;

(D) Physical and occupational therapy;

(E) Recreation, including therapeutic recreation;

(F) Social work services;

(G) School nurse services designed to enable a child with a disability to receive a free appropriate public education as described in the individualized education program of the child;

(H) Early identification and assessment of disabilities in children;

(I) Counseling services, including rehabilitation counseling;

(J) Orientation and mobility services;

(K) Medical services for diagnostic or evaluation purposes; and

(L) Parent counseling and training.

(b) "Related services" does not include a medical device that is surgically implanted or the replacement of a medical device that is surgically implanted.

(16) "School district" means a common or union high school district that is charged with the duty or contracted with by a public agency to educate children eligible for special education.

(17) "Service coordination" means the activities carried out by a service coordinator to assist and enable a preschool child with a disability and the child's family to receive the rights, procedural safeguards and services that are authorized under the state's early intervention and early childhood special education programs and to coordinate access to other services designated on the individualized family service plan.

(18) "Special education" means specially designed instruction that is provided at no cost to parents to meet the unique needs of a child with a disability. "Special education" includes instruction that:

(a) May be conducted in the classroom, the home, a hospital, an institution, a special school or another setting; and

(b) May involve physical education services, speech-language services, transition services or other related services designated by rule to be services to meet the unique needs of a child with a disability.

(19) "Unaccompanied homeless youth" has the meaning given that term in the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11434a(6).

(20) "Ward of the state" means a child who is temporarily or permanently in the custody of, or committed to, a public or private agency through the action of the juvenile court. "Ward of the state" may be further defined by rules adopted by the State Board of Education. [Formerly 343.212; 1977 c.528 §1; 1983 c.731 §1; 1991 c.749 §§1,1a; 1991 c.795 §1; 1993 c.409 §1; 1993 c.749 §3; 1995 c.280 §29; 1997 c.821 §25; 1999 c.989 §5; 2001 c.900 §242; 2005 c.662 §1; 2007 c.70 §102; 2009 c.255 §1]

343.037 [1985 c.555 §14; repealed by 1993 c.749 §4]

343.040 [Repealed by 1953 c.110 §2]

343.041 Supervision of programs for children with disabilities by Superintendent of Public Instruction; rules; complaint procedure; staff training; public agency cooperative agreements. (1) Pursuant to rules of the State Board of Education, the Superintendent of Public Instruction shall be responsible for the general supervision of all special education programs for children with disabilities, early childhood special education and early intervention services for preschool children with disabilities within the state, including all such programs administered by any state agency or common or union high school district or education service district.

(2) All special education programs for children with disabilities, early childhood special education and early intervention services for preschool children with disabilities within this state shall meet the standards and criteria established therefor by the State Board of Education.

(3) The State Board of Education shall adopt by rule procedures whereby the superintendent investigates and resolves complaints that the Department of Education, a local education agency or an early intervention or early childhood special education contractor has violated a federal law or statute that applies to a special education or early childhood special education program.

(4) The State Board of Education shall adopt rules relating to the establishment and maintenance of standards to ensure that personnel providing special education and early childhood special education and early intervention services are appropriately and adequately trained.

(5) The Governor shall direct that agencies affected by this section enter into cooperative agreements to achieve necessary uniformity in meeting the standards and criteria established by the state board under subsection (2) of this section.

(6) The Governor shall direct that each public agency obligated under federal or state law to provide or pay for any services that are also considered special education or related services necessary for ensuring a free appropriate public education to children with disabilities, including but not limited to the Department of Human Services, enter into cooperative agreements with the Department of Education concerning:

(a) Allocation among agencies of financial responsibility for providing services;

(b) Conditions, terms and procedures for reimbursement; and

(c) Policies and procedures for coordinating timely and appropriate delivery of services.

(7) All cooperative agreements entered into under subsections (5) and (6) of this section shall include procedures for resolving interagency disputes. [1977 c.528 §3; 1989 c.491 §30; 1991 c.749 §2; 1999 c.989 §6; 2005 c.22 §237]

343.045 Criteria for development and operation of special programs; rules. The State Board of Education shall establish by rule criteria to guide the development and operation of special programs authorized by this chapter. The Superintendent of Public Instruction shall apply these criteria in certifying such programs for reimbursement specifically provided by law for such programs. The criteria shall be limited to educational services and educational programs and shall not include treatment. [Formerly 343.235; 1975 c.621 §1; 1977 c.714 §10; 1989 c.491 §31]

343.050 [Repealed by 1953 c.110 §2]

343.055 Administration of programs by Superintendent of Public Instruction; rules; powers of board. (1) The Superintendent of Public Instruction shall administer all programs established under this chapter. The State Board of Education, consistent with the provisions of ORS 342.120 to 342.430, shall adopt rules relating to qualifications of teachers, supervisors, work experience coordinators, coordinators of volunteer services and trainers of volunteer personnel, courses of study, admission, eligibility of children, size of special facilities, rooms and equipment, supervision, territory to be served, and such other rules as the board considers necessary to administer this chapter.

(2) Out of such funds as may otherwise be appropriated for the purposes enumerated in this section, the State Board of Education may:

(a) Purchase and prepare equipment and supplies to be loaned to school districts and county or regional special education facilities which provide approved programs for children with disabilities in the public schools.

(b) Contract with and pay an educational institution, either within or without the state, for the purpose of providing educational services for children who are both deaf and blind.

(c) Purchase and prepare equipment and supplies to be loaned to early childhood special education and early intervention contractors that provide approved programs for preschool children with disabilities. [Formerly 343.500; 1967 c.329 §1; 1975 c.621 §2; 1989 c.491 §32; 1991 c.749 §3; 1993 c.45 §199]

343.060 [Repealed by 1953 c.110 §2]

343.065 Employment of personnel to supervise types of services for special programs; duties; distribution of training materials. (1) The Superintendent of Public Instruction shall employ personnel qualified by training and experience to supervise the types of services required by the special programs authorized by this chapter. Personnel so employed shall assist the school districts, county and regional facilities, early childhood special education programs, early intervention services and hospitals in the organization and development of special programs authorized by this chapter, shall have general supervision of such programs, and shall assist school districts, early childhood special education and early intervention contractors in obtaining required services, equipment and materials, particularly where the number of children is too small to justify district or contractor purchase of equipment and materials.

(2) The Department of Education shall distribute to all school districts administrative guidelines, technical assistance materials, practice guidance materials and other training materials it develops for the purpose of assisting school districts in complying with the provisions of this chapter and with rules adopted by the department under this chapter.

(3) Upon receipt of any materials described in subsection (2) of this section, a school district shall distribute copies of the materials to all instructional staff. [Formerly 343.255; 1991 c.749 §4; 1999 c.639 §2; 2009 c.255 §2]

343.070 [Repealed by 1953 c.110 §2]

343.075 [1965 c.100 §393; 1973 c.728 §5; repealed by 1975 c.621 §17]

343.077 [1975 c.621 §§12,13; 1977 c.530 §1; repealed by 1979 c.423 §1 (343.153 to 343.187 enacted in lieu of 343.077)]

343.080 [Repealed by 1953 c.110 §2]

343.085 Tuition prohibited. No tuition shall be charged to any resident student participating in any special program authorized by this chapter. [1965 c.100 §394; 1993 c.45 §200]

343.090 [Repealed by 1965 c.100 §456]

343.095 [1993 c.409 §3; renumbered 343.523 in 1999]

343.100 [Repealed by 1965 c.100 §456]

343.110 [Repealed by 1965 c.100 §456]

343.120 [Repealed by 1965 c.100 §456]

343.125 [1973 c.730 §2; 1981 c.878 §1; 1991 c.346 §1; 1993 c.45 §202; renumbered 329.255 in 1993]

343.130 [Amended by 1957 c.232 §1; renumbered 343.910]

343.135 [1973 c.730 §3; 1981 c.878 §2; 1991 c.346 §2; renumbered 329.265 in 1993]

343.140 [Repealed by 1965 c.100 §456]

343.145 [1973 c.730 §4; renumbered 329.275 in 1993]

SPECIAL EDUCATION PROCEDURES

343.146 Determination of eligibility for special education services; evaluation; reevaluation; medical or vision examination; health assessment. (1) To receive special education, children with disabilities shall be determined eligible for special education services under a school district program approved under ORS 343.045 and as provided under ORS 343.221.

(2) Before initially providing special education, the school district shall ensure that a full and individual evaluation is conducted to determine the child's eligibility for special education and the child's special educational needs.

(3) Eligibility for special education shall be determined pursuant to rules adopted by the State Board of Education.

(4) Each school district shall conduct a reevaluation of each child with a disability in accordance with rules adopted by the State Board of Education.

(5) If a medical or vision examination or health assessment is required as part of an initial evaluation or reevaluation, the evaluation shall be given:

(a) In the case of a medical examination, by a physician licensed to practice by a state board of medical examiners or a state medical board;

(b) In the case of a health assessment, by a nurse licensed by a state board of nursing and specially certified as a nurse practitioner or by a licensed physician assistant; and

(c) In the case of a vision examination, by an ophthalmologist or optometrist licensed by a state board. [1999 c.989 §12; 2005 c.662 §2; 2007 c.86 §4]

343.149 [1999 c.989 §22; repealed by 2005 c.209 §41 and 2005 c.662 §17]

343.150 [Repealed by 1965 c.100 §456]

343.151 Individualized education program; contents; procedures; review; revision; rules; standard forms; alternate forms. (1) School districts shall ensure that an individualized education program is developed, reviewed and revised for each child with a disability, as defined in ORS 343.035, pursuant to the rules of the State Board of Education.

(2) The State Board of Education shall establish by rule the contents of an individualized education program, including transition services, and the procedures for the development, review and revision of an individualized education program. The board shall also adopt by rule standard forms for use in developing an individualized education program.

(3) Each school district shall use the individualized education program forms established by rule under subsection (2) of this section in the development, review and revision of all individualized education programs.

(4) Notwithstanding subsection (3) of this section, a school district may use alternate forms in the development, review and revision of an individualized education program if the school district submits the form to the Department of Education and the department approves the use of the alternate form.

(5) In considering whether to approve an alternate form under subsection (4) of this section, the department shall consider whether the form meets the requirements for the contents of an individualized education program adopted under subsection (2) of this section and whether the form satisfies the intent of subsection (4) of this section to reduce unnecessary or confusing paperwork. The department shall approve or disapprove an alternate form submitted under subsection (4) of this section within 10 days of receiving the alternate form. [1999 c.639 §4; 2005 c.662 §3]

343.153 [1979 c.423 §2 (enacted in lieu of 343.077); 1985 c.555 §11; 1989 c.491 §33; 1991 c.795 §2; repealed by 1993 c.45 §203]

343.155 Procedures to protect rights of child with disability; rules; content of rules. The State Board of Education shall establish by rule procedures to protect the rights of every child with a disability who is eligible for special education and every child who there is a reasonable cause to believe has a disability, including:

(1) Rules providing for the participation of the parents of a child with a disability in meetings regarding the child's identification, evaluation, individualized education program, educational placement and the provision of a free appropriate public education to the child.

(2) Rules governing the procedures for the appointment of a surrogate for the parent and other rules necessary to protect the special educational rights of the child, which shall include, but need not be limited to, rules applicable whenever:

(a) No parent of the child can be identified or located after reasonable efforts;

(b) There is reasonable cause to believe that the child has a disability and is a ward of the state;

(c) The child is an unaccompanied homeless youth; or

(d) The child reaches the age of majority and has been determined not to have the ability to give informed consent regarding the child's education.

(3) Rules prescribing mediation procedures, resolution sessions and hearings procedures if identification, evaluation, individual education program or placement is contested.

(4) Rules prescribing when notice of procedural safeguards must be given to the parents or the child with a disability who has reached the age of majority, the content of the notice and the language of the notice.

(5) Rules prescribing standards and procedures for disciplinary actions for behavior or misconduct of a child with a disability.

(6) Other procedural safeguards as required by law. [1979 c.423 §3 (enacted in lieu of 343.077); 1989 c.491 §34; 1991 c.795 §3; 1999 c.989 §10; 2005 c.662 §4; 2007 c.70 §103]

343.157 Duty of school districts to identify, locate and evaluate resident children in need of special education or early intervention. Pursuant to rules of the State Board of Education, school districts shall identify, locate and evaluate all resident children who may have disabilities and be in need of special education, early childhood special education or early intervention. [1979 c.423 §4 (enacted in lieu of 343.077); 1991 c.749 §5; 1993 c.749 §5]

343.159 Requirements for written notice to parents of child with disability; contents of notice; language or mode of communication of parent. (1) A school district shall give written notice to the parents of a child with a disability a reasonable time before the school district:

(a) Proposes to initiate or change the identification, evaluation or educational placement of the child or the provision of a free appropriate public education to the child; or

(b) Refuses to initiate or change the identification, evaluation or educational placement of the child or the provision of a free appropriate public education to the child.

(2) The written notice must comply with the rules prescribed by the State Board of Education.

(3) The written notice required under subsection (1) of this section shall be:

(a) Written in language understandable to the general public; and

(b) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(4) If the native language or other mode of communication of the parent is not a written language, the school district shall take steps to ensure:

(a) That the notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;

(b) That the parent understands the content of the notice; and

(c) That there is written evidence that the requirements of this subsection have been met. [1999 c.989 §15]

343.160 [Repealed by 1965 c.100 §456]

343.163 [1979 c.423 §5 (enacted in lieu of 343.077); 1991 c.795 §4; repealed by 1993 c.749 §6 (343.164 enacted in lieu of 343.163)]

343.164 Parental consent requirements for evaluation, reevaluation or placement; revocation of consent. (1) A school district shall obtain informed written parental consent before the school district conducts an initial evaluation or a reevaluation and before the initial provision of special education and related services for a child with a disability.

(2)(a) At any time, the parent of a child may revoke, in writing, consent for:

(A) An initial evaluation;

(B) The initial provision and the continuing provision of special education and related services; and

(C) A reevaluation.

(b) If a parent revokes consent as provided in paragraph (a) of this subsection, the revocation is not retroactive and does not invalidate an action that was based on the consent and that occurred after the consent was given and before the consent was revoked.

(3) The school district shall follow procedures prescribed in rules of the State Board of Education when necessary consent is not obtained. [1993 c.749 §7 (enacted in lieu of 343.163); 1999 c.989 §13; 2009 c.255 §4]

343.165 Circumstances requiring hearing; deadline for requesting hearing; rules; expedited hearing; independent hearing officer. (1) A hearing shall be conducted pursuant to rules of the State Board of Education if:

(a) The parent requests a hearing to contest the determination of the school district concerning the identification, evaluation, individualized education program, educational placement or the provision of a free appropriate public education to the child; or

(b) The school district requests a hearing to obtain a decision regarding whether its identification, evaluation, individualized education program or educational placement of the child is appropriate or whether the district's proposed action is necessary to provide the child with a free appropriate public education.

(2) Notwithstanding subsection (1)(b) of this section, a school district may not request a hearing if a parent refuses or revokes consent for placement in a program providing special education and related services.

(3)(a) Except as provided in paragraph (b) of this subsection, a hearing described in subsection (1) of this section must be requested within two years after the date of the act or omission that gives rise to the right to request a hearing under subsection (1) of this section.

(b) The timeline described in paragraph (a) of this subsection does not apply to a parent if the parent was prevented from requesting the hearing due to:

(A) Specific misrepresentations by the school district that it had resolved the problem forming the basis of the complaint; or

(B) The school district withholding from the parent information that the district was required to provide under this chapter.

(4) The State Board of Education shall adopt rules that establish when a school district is obligated to initiate a contested case hearing to ensure that a student with a disability is provided with a free appropriate public education.

(5) The board's rules in subsection (1) of this section shall be as consistent as possible with the procedures applicable to a contested case under ORS chapter 183. However, the board's rules shall provide that:

(a) Any party to a hearing has the right to prohibit the introduction of any evidence that has not been disclosed to that party at least five business days before the hearing; and

(b) The hearing officer may prohibit the introduction of any evidence regarding evaluations and recommendations based on those evaluations that a party intends to use at the hearing, if the evidence has not been disclosed to the other party at least five business days before the hearing, unless the other party consents to the introduction of the evidence.

(6) Notwithstanding subsection (5) of this section, in an expedited hearing the evidence must be disclosed to the other party not later than two business days before the hearing.

(7) The parent shall be entitled to have the child who is the subject of the hearing present at the hearing and to have the hearing open to the public.

(8) An expedited hearing shall be held if:

(a) In a dispute over a disciplinary action for a child with a disability, the child's parent disagrees with a determination that the child's behavior was not a manifestation of

the child's disability or with any decision regarding the child's educational placement; or

(b) The school district believes that maintaining the current placement for the child is substantially likely to result in injury to the child or others.

(9) The hearing shall be conducted by an independent hearing officer appointed by the Superintendent of Public Instruction. The hearing officer:

(a) Shall not be:

(A) An employee of a school district involved in the education or care of the child;

(B) An employee of the Department of Education; or

(C) A person having any personal or professional interest that would conflict with the person's objectivity in the hearing.

(b) Shall possess:

(A) Knowledge of, and the ability to understand, the provisions of state and federal special education laws, regulations and legal interpretations by federal and state courts;

(B) The knowledge and ability to conduct hearings in accordance with appropriate standard legal practice; and

(C) The knowledge and ability to render and write decisions in accordance with standard legal practice. [1979 c.423 §6 (enacted in lieu of 343.077); 1989 c.252 §1; 1989 c.491 §35; 1991 c.795 §5; 1993 c.45 §206; 1993 c.749 §8; 1999 c.989 §16; 2001 c.483 §1; 2005 c.662 §5; 2007 c.70 §104; 2009 c.255 §5]

343.167 Result of hearing; effect of procedural violations; deadline for decision; cost of hearing; rules. (1) If the finding at the hearing held under ORS 343.165 is that the identification, evaluation and educational placement by the district are appropriate and that the child is being provided a free appropriate public education, the hearing officer shall decide in support of the determination of the district.

(2) If the finding at the hearing is that the identification, evaluation or educational placement is not appropriate or that the child is not being provided a free appropriate public education, the hearing officer shall grant appropriate relief within the hearing officer's scope of authority.

(3) In matters alleging a procedural violation, a hearing officer may find that a child did not receive a free appropriate public education only if the procedural inadequacies:

(a) Impeded the child's right to a free appropriate public education;

(b) Significantly impeded the parents' opportunity to participate in the decision-making process regarding the provision of a free appropriate public education to the child; or

(c) Caused a deprivation of educational benefits.

(4) Nothing in subsection (3) of this section shall be construed to preclude a hearing officer from ordering a school district to comply with procedural requirements.

(5) The decision shall be entered not later than 45 days after the request for hearing is filed unless an extension has been granted by the hearing officer at the request of the parent or the school district. Copies of the decision shall be sent to the parent and to the school district accompanied by a statement describing the method of appealing the decision.

(6) In expedited hearings conducted pursuant to ORS 343.165 (8), the State Board of Education shall adopt rules that require a hearing within 20 school days of the date the hearing is requested and a determination within 10 school days after the hearing.

(7) Pursuant to rules of the State Board of Education, the Superintendent of Public Instruction shall bill the school district for all reasonable costs connected with the appointment of an independent hearing officer and the conduct of a due process hearing. The district shall make payment to the Department of Education for the cost of the hearing within 30 days of receipt of the billing. [1979 c.423 §7 (enacted in lieu of 343.077); 1989 c.252 §2; 1991 c.795 §6; 1993 c.749 §9; 1999 c.989 §17; 2001 c.483 §2; 2005 c.662 §6]

343.170 [Repealed by 1965 c.100 §456]

343.173 Parental right to examine district records; independent evaluation; hearing; costs. (1) Notwithstanding the limitation on access to records under ORS 192.410 to 192.505, 326.565, 326.575 and 336.187, the parent is entitled at any reasonable time to examine all of the records of the school district pertaining to the identification, evaluation and educational placement of the child and the provision of a free appropriate public education to the child.

(2) Any parent is entitled to obtain an independent evaluation at the expense of the school district if the parent disagrees with an evaluation obtained by the district.

(3) If the school district disagrees with the parent's request for an independent educational evaluation, the district may initiate a hearing under ORS 343.165 to show that the district's evaluation is appropriate. If the final decision is that the district's evaluation is appropriate, the parent has the right to an independent educational evaluation, but not at the district's expense.

(4) If the parent requests an independent educational evaluation of the child, the school district shall provide information

about where an independent educational evaluation may be obtained.

(5) If a hearing officer appointed under ORS 343.165 requests an independent educational evaluation as part of a hearing, the school district shall pay the cost of the evaluation.

(6) For purposes of this section, "independent educational evaluation" means an evaluation conducted by a qualified examiner who is not employed by the school district responsible for the child in question. [1979 c.423 §8 (enacted in lieu of 343.077); 1989 c.252 §3; 1989 c.491 §36; 1993 c.45 §207; 1999 c.989 §18]

343.175 Civil action following hearing; deadline; attorney fees; limitations; reduction of fees. (1) A decision under ORS 343.165 is final unless the parent or the school district files a civil action under subsection (2) of this section.

(2) Either party aggrieved by the finding and decision of the hearing officer may commence a civil action in any court of competent jurisdiction.

(3) In any action brought under this section, the court shall receive the records from the administrative proceeding, shall hear additional evidence at the request of a party and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

(4) Any civil action brought under this section shall be commenced within 90 days of the date of the hearing officer's final order.

(5) In any action or proceeding brought under ORS 343.165 or in an appeal from any action or proceeding brought under ORS 343.165, the court, in its discretion, may award reasonable attorney fees as part of costs to:

(a) The parents of a child with a disability, if the parents are the prevailing party;

(b) A prevailing party who is the Department of Education or school district against the attorney of a parent who files a complaint or subsequent cause of action that is frivolous, unreasonable or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable or without foundation; or

(c) A prevailing party who is the Department of Education or a school district against the attorney of a parent, or against the parent, if the parent's complaint or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay or to needlessly increase the cost of litigation.

(6) Attorney fees awarded under this section shall be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating these fees.

(7) Attorney fees may not be awarded and related costs may not be reimbursed under this section for services performed after a written offer of settlement to a parent if:

(a) The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure, or in case of an administrative hearing, more than 10 days before the hearing begins;

(b) The offer is not accepted within 10 days; and

(c) The relief finally obtained by the parents is not more favorable to the parents than the offer of settlement.

(8) Notwithstanding subsection (7) of this section, attorney fees and related costs may be awarded to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer.

(9) Attorney fees may not be awarded relating to any meeting of the individualized education program team unless the meeting is convened as a result of an administrative proceeding under ORS 343.165, or as a result of judicial action. A resolution session is not considered a meeting convened as a result of an administrative hearing or judicial action, or an administrative hearing or judicial action.

(10) Attorney fees may not be awarded for a mediation that is conducted before a request for a hearing under ORS 343.165.

(11) The court shall reduce the amount of attorney fees awarded under this section if:

(a) The parent unreasonably protracted the final resolution of the controversy;

(b) The amount of the attorney fees unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation and experience;

(c) The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or

(d) In requesting a hearing under ORS 343.165 (1)(a), the attorney representing the parent did not provide written notice to the Superintendent of Public Instruction that included:

(A) The child's name, address and school;

(B) A description of the problem and facts relating to the problem; and

(C) A proposed resolution of the problem.

(12) The court shall not reduce fees under subsection (11) of this section if:

(a) The school district unreasonably protracted the final resolution of the controversy; or

(b) The school district violated the procedural safeguards as set forth in ORS 343.146 to 343.183. [1979 c.423 §9 (enacted in lieu of 343.077); 1983 c.731 §9; 1989 c.252 §4; 1993 c.45 §208; 1993 c.749 §12; 1999 c.989 §19; 2001 c.104 §116; 2005 c.662 §7]

343.177 Educational placement during administrative or judicial proceedings; circumstances where placement may be changed. (1) During the pendency of any administrative or judicial proceedings concerning the identification, evaluation or educational placement of the child or the provision of a free appropriate public education to the child, the child shall remain in the then current educational program placement.

(2) Notwithstanding subsection (1) of this section, the placement of a child may be changed if:

(a) The parent consents to placement in a program provided or selected by the district at the district's expense until the parent provides a written revocation of consent or until the proceedings referred to in subsection (1) of this section are completed if applying for initial admission to a public school;

(b) The parent and the school district agree to temporary placement in some other program;

(c) The school district orders a change in placement to an appropriate interim alternative educational setting for up to 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability:

(A) Due to a weapon, illegal drug or controlled substance incident; or

(B) Because the child has inflicted serious bodily injury upon another person while at school, on school premises or at a school function under the jurisdiction of the Department of Education or school district;

(d) A hearing officer orders a change in placement to an appropriate interim alternative educational setting for up to 45 school days due to the substantial likelihood of injurious behavior, pursuant to rules of the State Board of Education; or

(e) School personnel order a change in placement to an interim alternative educational setting for more than 10 school days for a child with a disability who violates a code of student conduct and the behavior that gave rise to the violation is determined not to be a manifestation of the child's disability.

(3) If the placement of a child with a disability is changed under subsection (2)(e) of this section:

(a) The relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner and for the same duration as the disciplinary procedures would be applied to children without disabilities;

(b) The child continues to be entitled to a free appropriate public education under ORS 339.252, although the education may be provided in an interim alternative educational setting; and

(c) The child shall remain in the interim alternative educational setting pending the decision of a hearing officer or until the expiration of the school district's determination of duration of the change in placement under paragraph (a) of this subsection, whichever occurs first.

(4) For the purposes of subsection (2)(b) of this section, a decision of a hearing officer under ORS 343.165 that agrees with the child's parents that a change of placement is appropriate shall be treated as an agreement between the school district and the parents. [1979 c.423 §10 (enacted in lieu of 343.077); 1991 c.795 §7; 1993 c.749 §13; 1995 c.237 §1; 1999 c.989 §20; 2005 c.662 §8; 2009 c.255 §6]

343.180 [Repealed by 1965 c.100 §456]

343.181 Transfer of special education rights to child with disability upon age of majority; notice. When a child with a disability reaches the age of majority as described in ORS 109.510 or 109.520 or is emancipated pursuant to ORS 419B.550 to 419B.558:

(1) The rights accorded to the child's parents under this chapter transfer to the child;

(2) The school district shall provide any written notice required to both the child and the parents; and

(3) The school district shall notify the child and the parents of the transfer of rights. [1999 c.989 §9]

343.183 Effect of school district failure to comply; withholding funds; expense of independent evaluation. (1) In addition to and not in lieu of any other sanction that may be imposed against a noncomplying school district, the Superintendent of Public Instruction may withhold all or any part of the funds otherwise due a district for special education until the district complies with the requirements of ORS 343.146 to 343.183.

(2) If the Superintendent of Public Instruction finds that the school district has

refused to pay for the independent evaluation when the results thereof required the determination of the school district to be revised significantly, the superintendent may withhold from funds due the district for special education an amount not to exceed the expense incurred by the parent in obtaining the independent evaluation. The superintendent shall use the funds thus withheld for payment of the costs of the independent evaluation. [1979 c.423 §11 (enacted in lieu of 343.077); 1989 c.491 §37]

343.185 [1979 c.423 §12 (enacted in lieu of 343.077); 1983 c.294 §1; 1989 c.158 §1; repealed by 1991 c.795 §15]

343.187 [1979 c.423 §14 (enacted in lieu of 343.077); 1989 c.491 §38; 1991 c.795 §8; renumbered 339.623 in 1991]

343.190 [Repealed by 1965 c.100 §456]

343.193 Duty to report child with disability not enrolled in special education program; effect of report. (1) Any public or private official having reasonable cause to believe that any child with whom the official comes in contact officially is a child with a disability who is eligible for but not enrolled in a special education program shall report to the Superintendent of Public Instruction the child's name and the facts leading the official to the belief.

(2) Nothing in ORS 40.225 to 40.295 shall affect the duty to report imposed by subsection (1) of this section except that a physician, licensed psychologist, member of the clergy or attorney shall not be required to report information communicated by an adult if such information is privileged under ORS 40.225 to 40.295.

(3) Upon receipt of a report under subsection (1) of this section, the Superintendent of Public Instruction shall verify whether the child is enrolled in a special education program and may cause an investigation, including an evaluation under ORS 343.146, to be made to determine whether the child is eligible for a program under ORS 343.221.

(4) As used in this section, "public or private official" has the meaning given in ORS 419B.005. [1979 c.836 §6; 1983 c.740 §108; 1989 c.224 §53; 1993 c.45 §210; 1993 c.546 §102; 1999 c.989 §35; 2001 c.104 §117; 2007 c.70 §105]

343.195 [1991 c.795 §16; 1993 c.45 §212; repealed by 1999 c.989 §36]

343.200 [Repealed by 1965 c.100 §456]

343.210 [Repealed by 1955 c.721 §1]

343.211 [1959 c.510 §2 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part); repealed by 1965 c.100 §395 (343.212 enacted in lieu of 343.211)]

343.212 [1965 c.100 §396 (enacted in lieu of 343.211); 1969 c.291 §1; 1975 c.621 §4; renumbered 343.035]

343.216 [1953 c.444 §§1,2; repealed by 1955 c.721 §1]

343.218 [1953 c.444 §§3,4; repealed by 1955 c.721 §1]

343.220 [Repealed by 1953 c.710 §23]

ADMINISTRATION OF SPECIAL EDUCATION

343.221 Special education required; district projected activities and cost statement; permitted contracts for services. In order to provide special education for children with disabilities, the district school board of any school district in which there are school-age children who require special education:

(1) Shall submit an annual projected activities and cost statement to the Superintendent of Public Instruction for a program of special education for the district's children with disabilities. The proposed district program shall include provisions for providing special education and related services and be designed to meet the unique needs of all resident children with disabilities.

(2) Shall provide special education for such children consistent with the projected activities and cost statement.

(3) May, when the board considers a contract to be economically feasible and in the interests of the learning opportunities of eligible children, contract for special education for such children with another school district if the district school boards jointly agree to provide special education.

(4) May, when the board considers a contract to be economically feasible and in the interests of the learning opportunities of eligible children, contract for special education for such children with an education service district if:

(a) The contract is consistent with the local service plan of the education service district developed pursuant to ORS 334.175 and the school districts within the education service district approve the contract by a resolution adopted in the manner provided in ORS 334.175.

(b) The school district contracts with an education service district pursuant to ORS 334.185.

(5) May contract with private agencies or organizations approved by the State Board of Education for special education.

(6) May use the services of public agencies, including community mental health programs and community developmental disabilities programs, which provide diagnostic, evaluation and other related services for children.

(7) May contract for the provision of related services by a person in private practice if that person is registered, certified or licensed by the State of Oregon as qualified to provide a particular related service that requires registration, certification or licensing by the state. [1959 c.510 §4 (343.211 to 343.291 and

343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part); 1963 c.403 §1; 1965 c.100 §399; 1975 c.621 §6; 1977 c.529 §1; 1981 c.393 §2; 1983 c.731 §2; 2005 c.828 §6; 2009 c.595 §215]

343.222 [1953 c.444 §6; repealed by 1955 c.721 §1]

343.223 Assistive technology devices or services; rules. (1) Each school district shall make assistive technology devices or assistive technology services, or both, available to a child with a disability if required as part of a child's special education, related services or supplementary aids and services.

(2) The State Board of Education shall establish by rule the definitions of assistive technology devices and assistive technology services. [1993 c.749 §15]

Note: 343.223 was added to and made a part of ORS chapter 343 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

343.224 School district liability for expense of noneducational care. School districts shall not be financially responsible for noneducational care of a child with a disability unless that district has participated in development of the child's individualized education plan that clearly documents such care is prerequisite to the child receiving a free and appropriate education and the placement is for educational program needs, rather than care needs. [Formerly 343.367; 2007 c.70 §106]

343.225 [1959 c.510 §5 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part); 1963 c.544 §48; repealed by 1965 c.100 §456]

343.227 [1965 c.100 §398; 1975 c.621 §5; 1993 c.45 §213; 1993 c.316 §1; repealed by 1999 c.989 §36]

343.230 [Repealed by 1953 c.710 §23]

343.231 [1959 c.510 §6 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part); repealed by 1965 c.100 §456]

343.234 [1953 c.710 §2; repealed by 1959 c.510 §1 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part)]

343.235 [1959 c.510 §11 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part); 1965 c.100 §389; renumbered 343.045]

343.236 State reimbursed or operated local, county or regional programs; rules. (1)(a) The Superintendent of Public Instruction may provide special education on a local, county or regional basis without regard to county boundaries in all areas of the state for children who have:

(A) A visual impairment;

(B) A hearing impairment;

(C) Blindness or deafness, or both;

(D) An orthopedic impairment;

(E) Autism; or

(F) Traumatic brain injury.

(b) The superintendent shall designate one of the regional programs that provides special education to children who are blind or visually impaired to provide statewide coordination and technical assistance related to:

(A) The provision of services described in ORS 346.315 (2); and

(B) The transition of students from the Oregon School for the Blind to the communities and school districts where the students will be located after the closure of the Oregon School for the Blind.

(c) The program designated under paragraph (b) of this subsection may receive moneys from the Blind and Visually Impaired Student Fund established under ORS 346.315 and distribute those moneys to other regional programs.

(2) The Superintendent of Public Instruction may operate and administer a local, county or regional program of special education or the superintendent may contract for the operation and administration of the program with a school district or an education service district.

(3) The State Board of Education by rule shall establish eligibility criteria and educational standards for the programs described in subsection (1) of this section and those programs in the school operated under ORS 346.010.

(4) A school district which contracts to provide a program under this section shall be paid for the state-approved program as determined and funded by the Legislative Assembly. Contracting school districts are authorized to negotiate supplemental programs with participating school districts. [1965 c.100 §401; 1975 c.621 §7; 1985 c.555 §2; 1991 c.167 §24; 1991 c.795 §14; 1993 c.749 §16; 2003 c.226 §18; 2005 c.306 §1; 2007 c.858 §70; 2009 c.562 §11]

Note: The amendments to 343.236 by section 12, chapter 562, Oregon Laws 2009, become operative September 1, 2010. See section 13, chapter 562, Oregon Laws 2009. The text that is operative on and after September 1, 2010, is set forth for the user's convenience.

343.236. (1)(a) The Superintendent of Public Instruction may provide special education on a local, county or regional basis without regard to county boundaries in all areas of the state for children who have:

(A) A visual impairment;

(B) A hearing impairment;

(C) Blindness or deafness, or both;

(D) An orthopedic impairment;

(E) Autism; or

(F) Traumatic brain injury.

(b) The superintendent shall designate one of the regional programs that provides special education to children who are blind or visually impaired to provide statewide coordination and technical assistance related to the provision of services described in ORS 346.315 (2).

(c) The program designated under paragraph (b) of this subsection may receive moneys from the Blind and Visually Impaired Student Fund established under ORS 346.315 and distribute those moneys to other regional programs.

(2) The Superintendent of Public Instruction may operate and administer a local, county or regional program of special education or the superintendent may contract for the operation and administration of the program with a school district or an education service district.

(3) The State Board of Education by rule shall establish eligibility criteria and educational standards for the programs described in subsection (1) of this section and those programs in the school operated under ORS 346.010.

(4) A school district which contracts to provide a program under this section shall be paid for the state-approved program as determined and funded by the Legislative Assembly. Contracting school districts are authorized to negotiate supplemental programs with participating school districts.

343.238 [1953 c.710 §3; repealed by 1959 c.510 §1 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part)]

343.239 Annual billing for students served by or enrolled in certain programs or school; calculation of amount of billing; notice; payment deadline; distribution of moneys. (1) The Department of Education shall bill annually each resident school district for children who are residents of the school district and are served under ORS 343.236 or enrolled in a school operated under ORS 346.010.

(2) A billing under this section shall be in an amount equal to (the amount of federal funds received by the school district through the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., divided by the number of eligible children under the Individuals with Disabilities Education Act who are reported by the school district as receiving special education services on the December 1 special education census) multiplied by the number of children who are eligible under the Individuals with Disabilities Education Act and served under ORS 343.236 or enrolled in a school operated under ORS 346.010.

(3) The department shall notify each resident school district of the estimated amount of the billing no later than March 30 after the December 1 census.

(4) The department shall bill each resident school district no later than the November 1 following the March 30 notification under subsection (3) of this section. The resident school district shall pay the amount of the billing out of the school district's Individuals with Disabilities Education Act grant award no later than January 1 following the November 1 billing. In lieu of payment, a school district may request that the department withhold the billing amount from any unclaimed federal grant funds that are payable to the school district.

(5) The department shall distribute the moneys made available from billings under this section to each program providing services to children under ORS 343.236 or to the school in which children are enrolled under ORS 346.010. [2001 c.64 §1; 2009 c.562 §24]

Note: 343.239 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 343 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

343.240 [Repealed by 1953 c.710 §23]

343.241 [1959 c.510 §3 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part); repealed by 1965 c.100 §456]

343.243 Receipt of amount from State School Fund for children enrolled in certain programs; calculation of amount received; disposition of amount received. (1) Each school year, the Department of Education shall receive an amount, as calculated under this section, from the State School Fund to pay the costs of educating children in programs under ORS 343.261, 343.961 and 346.010.

(2) To meet the requirements of ORS 343.261, the department shall receive from the State School Fund an amount that is equal to the product of the following:

(a) The average net operating expenditure per student of all school districts during the preceding school year; and

(b) The number of slots available for students in the hospital programs under ORS 343.261, as determined by the department for the school year.

(3) To meet the requirements of ORS 343.961, the department shall receive from the State School Fund an amount that is equal to the product of the following:

(a) The average net operating expenditure per student of all school districts during the preceding school year; and

(b) The number of slots available for students in long-term care and treatment programs under ORS 343.961, as reported to the Department of Education by the Department of Human Services and the Oregon Youth Authority for the school year.

(4) To meet the requirements of ORS 346.010, the Department of Education shall receive from the State School Fund an amount that is equal to the product of the following:

(a) The average net operating expenditure per student of all school districts during the preceding school year; and

(b) The resident average daily membership of students enrolled in a program under

ORS 346.010 for one-half of the school day or more, exclusive of preschool children covered by ORS 343.533.

(5) The children covered by this section shall be enumerated in the average daily membership of the district providing the instruction but the district may not accrue credit for days' attendance of such children for the purpose of distributing state school funds.

(6) The liability of a district shall not exceed the amount established under this section even if the child is otherwise subject to ORS 336.575 and 336.580.

(7) The department shall credit amounts received from the State School Fund under this section to the appropriate subaccount in the Special Education Account. [1985 c.555 §7; 1987 c.282 §1; 1989 c.875 §1; 1989 c.971 §5; 1991 c.167 §25; 1991 c.780 §37; 1999 c.684 §1; 2001 c.36 §1; 2001 c.900 §243; 2009 c.439 §1]

343.244 [1953 c.710 §7; repealed by 1959 c.510 §1 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part)]

343.245 [1959 c.510 §7 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part); repealed by 1965 c.100 §456]

343.246 [1993 c.749 §11; repealed by 2001 c.36 §3]

343.247 Special Education Account. (1) There is established in the General Fund a separate account to be known as the Special Education Account. All moneys received by the Department of Education under this section shall be deposited in the State Treasury to the credit of the account and appropriated continuously for purposes of ORS 343.261, 343.961 and 346.010. The account shall be divided into two subaccounts:

(a) A subaccount for education under ORS 343.261 and 343.961.

(b) A subaccount for education under ORS 346.010.

(2) If the amount credited under subsection (1)(a) of this section and the General Fund appropriation for these programs are not adequate to meet costs, the Department of Education shall submit a revised budget to the Legislative Assembly or, if the Legislative Assembly is not in session, the Emergency Board. [1985 c.555 §8; 1993 c.45 §215]

343.248 [1953 c.710 §8; repealed by 1959 c.510 §1 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part)]

343.250 [Repealed by 1953 c.710 §23]

343.251 [1959 c.510 §8 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part); repealed by 1965 c.100 §456]

343.254 [1953 c.710 §9; repealed by 1959 c.510 §1 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part)]

343.255 [1959 c.510 §9 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part); 1965 c.100 §391; renumbered 343.065]

343.258 [1953 c.710 §11; repealed by 1959 c.510 §1 (343.211 to 343.291 enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part)]

343.260 [Repealed by 1953 c.710 §23]

343.261 Instruction of certain hospitalized children; rules. Under rules adopted by the State Board of Education:

(1) The Superintendent of Public Instruction, in cooperation with the hospital authorities, shall be responsible for payment of the cost and oversight of the educational programs for children through 21 years of age in the following institutions:

(a) State-operated hospitals;

(b) The Oregon Health and Science University hospitals and clinics; and

(c) Private hospitals not including psychiatric facilities which:

(A) Have the capacity to admit patients from throughout the state;

(B) Provide specialized intensive treatment for children with severe, low-incidence types of disabling conditions; and

(C) Admit children who can expect to be hospitalized for extended periods of time or rehospitalized frequently.

(2) The superintendent shall be responsible for the payment of the cost of the education by contract with the school district in which the state-operated hospital, the Oregon Health and Science University hospital or clinic or the private hospital is located. The hospital shall be responsible for the costs of transportation, care, treatment and medical expenses. The payments may be made to the school district, or at the discretion of the school district, to the district providing the education, as set forth in subsection (3) of this section, from the funds appropriated for the purpose.

(3) The school district in which the state-operated hospital, the Oregon Health and Science University hospital or clinic or the private hospital is located shall be responsible for providing the education directly or through an adjacent school district or through the education service district in which the program is located or one contiguous thereto.

(4) The superintendent shall make the final determinations concerning the eligibility of hospitals to receive state funding under this section. [1959 c.510 §10 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part); 1965 c.100 §402; 1975 c.621 §8; 1975 c.693 §2; 1979 c.737 §1; 1985 c.555 §3; 1989 c.224 §54; 1989 c.491 §39; 1989 c.875 §2; 1995 c.162 §69]

343.264 [1953 c.710 §§12,15; repealed by 1959 c.510 §1 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part)]

343.265 [1959 c.510 §13 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part); repealed by 1965 c.100 §456]

343.268 [1953 c.710 §§13,14; repealed by 1959 c.510 §1 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part)]

343.270 [Repealed by 1953 c.710 §23]

343.271 [1959 c.510 §12 (343.211 to 343.291 enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part); 1965 c.100 §403; 1971 c.602 §11; 1975 c.621 §9; repealed by 1993 c.45 §216]

343.274 [1953 c.710 §§5,10,19; repealed by 1959 c.510 §1 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part)]

343.275 [1959 c.510 §14 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part); repealed by 1965 c.100 §456]

343.277 [1965 c.100 §405; 1971 c.449 §5; repealed by 1993 c.45 §217]

343.278 [1953 c.710 §§20,21; repealed by 1959 c.510 §1 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part)]

343.280 [Repealed by 1953 c.710 §23]

343.281 [1959 c.510 §15 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part); 1965 c.100 §406; 1969 c.519 §1; 1975 c.621 §10; 1977 c.714 §7; 1985 c.555 §16; 1987 c.158 §60; repealed by 1991 c.780 §30]

343.283 [1985 c.555 §13; repealed by 1991 c.780 §30]

343.284 [1953 c.710 §4; repealed by 1959 c.510 §1 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part)]

343.285 Use of state funds to match federal funds. Where federal funds are made available on a matching basis for special education, state funds available for special education may be used to match the federal funds. [1959 c.710 §§16,17,20 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part); 1963 c.570 §18; 1965 c.100 §407; 1969 c.519 §2; 1975 c.621 §11]

343.287 State Advisory Council for Special Education; members; duties; expenses. (1) There is created a State Advisory Council for Special Education, consisting of members appointed by the Superintendent of Public Instruction. Members shall be representative of the geographic areas of this state.

(2) Members must include:

(a) Individuals with disabilities;

(b) Parents or guardians of children with disabilities ages birth through 26;

(c) Teachers;

(d) State and local education officials, including officials who carry out activities under part B of subchapter VI of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11431 et seq.;

(e) Administrators of programs for children with disabilities;

(f) Representatives of institutions of higher education that prepare personnel to work in special education and related services;

(g) Representatives of other state agencies involved in the financing or delivery of related services;

(h) Representatives of private schools and representatives of public charter schools as defined in ORS 338.005;

(i) At least one representative of a vocational, community or business organization concerned with the provision of transition services to children with disabilities;

(j) A representative from the Department of Human Services responsible for foster care;

(k) Representatives from the Oregon Youth Authority and Department of Corrections; and

(L) Other persons associated with or interested in the education of children with disabilities.

(3) A majority of the members shall be individuals with disabilities or parents of children with disabilities ages birth through 26.

(4) The State Advisory Council for Special Education shall:

(a) Review aspects of the statewide program of education of children with disabilities and advise the Superintendent of Public Instruction and the Department of Education on such programs;

(b) Advise the Superintendent of Public Instruction and the Department of Education of unmet needs in the education of children with disabilities;

(c) Comment publicly on any rules proposed for adoption by the Department of Education concerning special education;

(d) Assist the state in developing and reporting data and evaluations concerning special education;

(e) Advise the Department of Education in developing corrective action plans to address findings identified in federal monitoring reports on special education; and

(f) Advise the Department of Education in developing and implementing policies relating to the coordination of services for children with disabilities.

(5) Out of the funds appropriated to the Department of Education, the department shall reimburse members for necessary travel

and other expenses under ORS 292.495 (2). [Formerly 343.530; 1977 c.30 §1; 1989 c.158 §2; 1989 c.491 §40; 1993 c.45 §220; 1999 c.989 §23; 2001 c.104 §118; 2005 c.662 §9]

343.288 [1953 c.710 §18; repealed by 1959 c.510 §1 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part)]

343.290 [Repealed by 1953 c.710 §23]

343.291 [1959 c.510 §18 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part); repealed by 1965 c.100 §456]

343.293 Local advisory councils on special education; duties. (1) Every school district, combination of districts or education service district that operates or plans to operate a program of special education under ORS 343.035 and 343.221 may appoint one or more local advisory councils consisting primarily of parents of children being served in special education programs.

(2) Each advisory council shall select its own chairperson and vice chairperson and fix the duties of its officers.

(3) Each local advisory council shall review all aspects of the special program and report to the district school board, or boards or to the education service district board. The local council shall also make recommendations to the Superintendent of Public Instruction as to appointments to the State Advisory Council for Special Education. [Formerly 343.525; 1989 c.158 §3]

343.294 [1953 c.710 §16; repealed by 1959 c.510 §1 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part)]

343.295 Document of successful completion; summary of performance. (1) A school district shall award to children with disabilities a document certifying successful completion of program requirements. A school district may not issue a document to a child with a disability educated in full or in part in a special education program that indicates the document is issued by such a program.

(2) A school district shall give to a child with disability who has an individualized education program an individualized summary of performance when the child completes high school. [1975 c.621 §3; 1993 c.45 §221; 2007 c.660 §8]

343.298 [1953 c.710 §17; repealed by 1959 c.510 §1 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part)]

343.300 [Repealed by 1953 c.710 §23]

343.301 [1959 c.58 §1; 1965 c.100 §408; repealed by 1975 c.621 §17]

343.303 [1985 c.555 §28; repealed by 1991 c.780 §30]

343.304 [1953 c.701 §23; repealed by 1959 c.510 §1 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part)]

343.305 [1971 c.449 §1; 1973 c.827 §33; 1979 c.639 §5; 1979 c.700 §2; repealed by 1985 c.555 §26]

343.307 [1971 c.449 §2; repealed by 1985 c.555 §26]

343.310 [Repealed by 1953 c.710 §23]

343.315 [1957 c.556 §2; repealed by 1963 c.570 §33]

343.320 [Repealed by 1953 c.710 §23]

343.325 [1957 c.556 §1; repealed by 1963 c.570 §33]

343.330 [Repealed by 1953 c.710 §23]

343.335 [1957 c.556 §3; repealed by 1963 c.570 §33]

343.340 [Repealed by 1953 c.710 §23]

343.345 [1957 c.556 §§6,9; repealed by 1963 c.570 §33]

343.350 [Repealed by 1953 c.710 §23]

343.353 [1983 c.731 §4; 1989 c.491 §41; repealed by 1991 c.749 §6]

343.355 [1957 c.556 §8; repealed by 1963 c.570 §33]

343.357 [1983 c.731 §5; 1989 c.941 §42; repealed by 1991 c.749 §6]

343.360 [Repealed by 1953 c.710 §23]

343.363 [1983 c.731 §6; 1987 c.238 §1; 1991 c.749 §22; 1993 c.749 §17; renumbered 343.533 in 1993]

343.365 [1957 c.556 §7; repealed by 1963 c.570 §33]

343.367 [1983 c.731 §7; renumbered 343.224 in 1993]

343.370 [Amended by 1955 c.333 §1; renumbered 343.920]

343.375 [1957 c.556 §§4,5; repealed by 1963 c.570 §33]

343.380 [Amended by 1955 c.333 §2; renumbered 343.930]

343.385 [1957 c.556 §10; repealed by 1963 c.570 §33]

343.390 [Renumbered 343.940]

TALENTED AND GIFTED CHILDREN

343.391 Purpose of ORS 343.391 to 343.413. The purpose of ORS 343.391 to 343.413 is to facilitate the identification and education of talented and gifted children. [1959 c.528 §1; 1963 c.570 §21; 1971 c.613 §1; 1979 c.385 §1]

343.393 [1959 c.528 §11; repealed by 1961 c.500 §2]

343.395 Definitions for ORS 343.391 to 343.413. As used in ORS 343.391 to 343.413, unless the context requires otherwise:

(1) "Application" means a request by a school district for state funds to develop and operate programs for students under an approved, written plan as contained in ORS 343.397.

(2) "Board" means the State Board of Education.

(3) "Department" means the Department of Education.

(4) "Identification" means the formal process of screening and selecting talented and gifted children according to administrative rules established by the board.

(5) "School district" has the same meaning as in ORS 330.005 (2) and also includes, where appropriate, an education service district, state operated schools or programs or

a consortium of school districts submitting a joint plan.

(6) "Superintendent" means the Superintendent of Public Instruction.

(7) "Talented and gifted children" means those children who require special educational programs or services, or both, beyond those normally provided by the regular school program in order to realize their contribution to self and society and who demonstrate outstanding ability or potential in one or more of the following areas:

(a) General intellectual ability as commonly measured by measures of intelligence and aptitude.

(b) Unusual academic ability in one or more academic areas.

(c) Creative ability in using original or nontraditional methods in thinking and producing.

(d) Leadership ability in motivating the performance of others either in educational or noneducational settings.

(e) Ability in the visual or performing arts, such as dance, music or art. [1959 c.528 §2; 1963 c.570 §22; 1965 c.100 §409; 1971 c.613 §2; 1979 c.385 §2; 1987 c.335 §1]

343.396 Nature of programs. It is legislative policy that, when talented and gifted programs are offered, the programs should be provided by common or union high school districts, combinations of such districts or education service districts, in accordance with ORS 334.175, and that the state will provide financial and technical support to the districts to implement the education programs within the limits of available funds. [1979 c.385 §8; 1981 c.833 §2]

Note: 343.396 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 343 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

343.397 Plan of instruction for talented and gifted children. Any school district may submit to the Superintendent of Public Instruction for approval a written plan of instruction for talented and gifted children. The plan shall include, but not be limited to:

(1) A statement of school district policy on the education of talented and gifted children;

(2) An assessment of current special programs and services provided by the district for talented and gifted children;

(3) A statement of district goals for providing comprehensive special programs and services and over what span of time the goals will be achieved;

(4) A description of the nature of the special programs and services which will be provided to accomplish the goals; and

(5) A plan for evaluating progress on the district plan including each component program and service. [1959 c.528 §§5,6,7; 1963 c.570 §23; 1965 c.100 §410; 1971 c.613 §3; 1979 c.385 §3]

343.399 State aid to local districts; criteria. (1) Any school district may apply for state funds for special programs and services for talented and gifted children identified in the district.

(2) The Superintendent of Public Instruction shall annually establish a date after which no further applications shall be received for state funds under this section.

(3) The superintendent shall select applications from among those that comply with ORS 343.391 to 343.413 and rules adopted by the State Board of Education. Any criteria used by the superintendent to evaluate applications shall include, but not be limited to:

(a) A statement of the school district's present level of special educational programs and services for the talented and gifted and how the special educational programs and services contained in the application conform with the school district's written plan.

(b) Identification procedures that comply with rules adopted by the board.

(c) A detailed budget for the program expenditures.

(d) A description of the individual student assessment and evaluative procedures and tools.

(e) A justification of special educational services and programs for identified talented and gifted students in terms of the student assessment and evaluation.

(f) An evaluation design which meets standards set forth by the Department of Education. [1959 c.528 §8; 1963 c.570 §24; 1965 c.100 §411; 1971 c.613 §4; 1979 c.385 §4]

343.401 Use of funds appropriated for ORS 343.391 to 343.413. (1) Except as provided in ORS 343.404, the funds specifically appropriated for the program under ORS 343.391 to 343.413 shall be distributed to districts that have approved, written plans and have submitted an application to the Superintendent of Public Instruction that has been approved.

(2) State funds shall be allocated on an approved program cost basis, the amount of which shall be established by the State Board of Education annually.

(3) The superintendent may not approve an application unless the district agrees to expend district funds for special educational programs for talented and gifted children in an amount equal or greater than the amount

of state funds approved by the superintendent.

(4) The districts shall account for the grant funds as expended for the identified pupils on a form acceptable to the Department of Education, as described in rules adopted by the board. [1959 c.528 §9; 1963 c.570 §24a; 1965 c.100 §412; 1971 c.613 §5; 1979 c.385 §5; 2008 c.39 §3]

343.403 [1959 c.528 §10; 1963 c.570 §25; repealed by 1965 c.100 §456]

343.404 Funding for program. (1) The Superintendent of Public Instruction may annually expend funds appropriated for the talented and gifted program to provide administration of and support for the development of talented and gifted education statewide.

(2) These services may include:

(a) Teacher training programs and workshops;

(b) Consultant and technical assistance to districts;

(c) Small grants to and contracts with school districts, education service districts, colleges and universities and private contractors to produce and disseminate curriculum and instruction materials to other school districts;

(d) Training and assistance for parents of the talented and gifted children in meeting the educational needs of their children; and

(e) Contracting for the creation and administration of regional talented and gifted centers to provide services related to talented and gifted programs. [1971 c.613 §6; 1979 c.385 §6; 1981 c.833 §1; 1987 c.335 §2; 2008 c.39 §4]

343.405 [1963 c.570 §22a; repealed by 1965 c.100 §456]

343.407 Identification of talented and gifted students. School districts shall identify talented and gifted students enrolled in public schools under rules adopted by the State Board of Education. [1987 c.337 §3; 1993 c.45 §225]

343.409 Talented and gifted programs required. School districts shall provide educational programs or services to talented and gifted students enrolled in public schools under rules adopted by the State Board of Education. [1987 c.337 §4; 1993 c.45 §226; 1993 c.749 §18]

343.410 [1955 c.658 §2; 1961 c.541 §1; 1965 c.100 §413; 1971 c.96 §1; repealed by 1975 c.621 §17]

343.411 When identification and programs for certain children required or optional; state guidelines. (1) ORS 343.407 and 343.409 shall apply to the identification of and provision of special educational programs and services for the talented and gifted as described in ORS 343.395 (7)(a) and (b) and rules adopted by the State Board of Education.

(2) School districts may identify and provide special educational programs and services for students who demonstrate creative abilities, leadership abilities or unusual abilities in the visual or performing arts as described in ORS 343.395 (7)(c), (d) and (e) and rules adopted by the board.

(3) The board shall adopt state guidelines for the identification and provision of special educational programs and services described in subsection (2) of this section. [1991 c.951 §2]

343.413 Short title. ORS 343.407 to 343.413 shall be known as the Oregon Talented and Gifted Education Act. [1987 c.337 §2]

343.415 [1975 c.455 §2; 1991 c.693 §19; 1993 c.45 §228; renumbered 329.215 in 1993]

343.420 [1955 c.658 §1; 1961 c.541 §2; 1965 c.100 §414; repealed by 1975 c.621 §17]

343.425 [1975 c.455 §3; 1993 c.45 §229; renumbered 329.225 in 1993]

343.430 [1955 c.658 §3; 1961 c.541 §3; repealed by 1965 c.100 §456]

343.435 [1975 c.455 §4; renumbered 329.235 in 1993]

343.440 [1955 c.658 §§6,7; 1957 c.219 §1; 1959 c.182 §1; 1961 c.541 §4; 1963 c.570 §25a; repealed by 1965 c.100 §417 (343.441 enacted in lieu of 343.440)]

343.441 [1965 c.100 §418 (enacted in lieu of 343.440); repealed by 1975 c.621 §17]

343.445 [1965 c.100 §416; repealed by 1975 c.621 §17]

343.450 [1955 c.658 §8; 1961 c.541 §5; 1963 c.570 §25b; 1965 c.100 §419; repealed by 1975 c.621 §17]

SERVICES TO PRESCHOOL CHILDREN WITH DISABILITIES

343.455 Early childhood special education provided by prekindergartens; service requirement. (1) Oregon prekindergartens, as defined in ORS 329.170, shall be responsible for providing early childhood special education as defined in ORS 343.035 (5).

(2) Not less than 10 percent of the population of children served in Oregon prekindergartens shall be children who are eligible to receive early childhood special education. [1991 c.785 §4; 1993 c.45 §231; 2001 c.831 §25]

343.460 [1955 c.658 §10; 1959 c.182 §2; 1961 c.541 §6; 1963 c.570 §25c; 1965 c.100 §420; repealed by 1975 c.621 §17]

343.465 Policy on services to preschool children with disabilities; agency coordination of services. (1) It is the policy of this state to respect the unique nature of each child, family and community with particular attention to cultural and linguistic diversity, and to support a system of services for preschool children with disabilities and their families that:

(a) Recognizes the importance of the child's family, supports and builds on each family's strengths and respects family decision-making and input regarding service options and public policy.

(b) Identifies, evaluates and refers services for preschool children with disabilities at the earliest possible time.

(c) Uses specialized services and all other community services and programs for children, including community preschools, Head Start programs, community health clinics, family support programs and other child-oriented agencies.

(d) Uses a variety of funding sources for preschool children with disabilities and their families, including public and private funding, insurance and family resources.

(e) Assists families in utilizing necessary services in the most cost-effective and efficient manner possible by using a coordinated planning and implementation process.

(f) Insures that all children and their families, regardless of disability, risk factors or cultural or linguistic differences, are able to utilize services for which they would otherwise be qualified.

(g) Encourages services and supports for preschool children with disabilities and their families in their home communities and in settings with children without disabilities.

(h) Recognizes the importance of developing and supporting well-trained and competent personnel to provide services to preschool children with disabilities, and their families.

(i) Evaluates the system's impact on the child and family, including child progress, service quality, family satisfaction, transition into public schooling, longitudinal and cumulative reporting over several biennia and interagency coordination at both the state and local level.

(j) Reports information described in paragraph (i) of this subsection to the State Interagency Coordinating Council, the Governor, the Superintendent of Public Instruction, the State Board of Education and the Legislative Assembly each biennium.

(2) In carrying out the provisions of subsection (1) of this section, the Department of Education, the Department of Human Services and the Oregon University System shall coordinate services to preschool children with disabilities, or who are at risk of developing disabling conditions, and their families. All program planning, standards for service, policies regarding services delivery and budget development for services for preschool children with disabilities, and their families shall reflect the policy outlined in subsection (1) of this section and elaborated through rules and agreements. [1991 c.749 §7; 1995 c.79 §187; 2009 c.762 §61]

Note: Section 8, chapter 409, Oregon Laws 1993, provides:

Sec. 8. Effect of unavailability of federal funds on programs for preschool children. If federal funds are not available for programs for preschool children with disabilities for children from birth to three years of age, the program shall be continued with state funding at least at the current level but the additional requirements imposed on the program by this Act shall not be required and school districts shall not be required to comply with the additional requirements. [1993 c.409 §8]

343.470 [1955 c.658 §11; 1959 c.182 §3; 1961 c.541 §7; 1963 c.570 §26; 1965 c.100 §421; 1969 c.544 §8; repealed by 1975 c.621 §17]

343.475 Program of early childhood special education and early intervention services; service areas; primary contractor; voluntary local early childhood system plan; residency; sanctions. (1) In accordance with rules adopted by the State Board of Education, the Superintendent of Public Instruction shall develop and administer a statewide, comprehensive, coordinated, multidisciplinary, interagency program of early childhood special education and early intervention services for preschool children with disabilities and may:

(a) Establish and designate service areas throughout the state for the delivery of early childhood special education and early intervention services that shall meet state and federal guidelines and be delivered to all eligible children.

(b) Designate in each service area a primary contractor that shall be responsible for the administration and coordination of early childhood special education and early intervention services to all eligible preschool children and their families residing in the service area.

(2) Early childhood special education and early intervention services shall:

(a) Participate in the planning process under ORS 417.777 to develop a voluntary local early childhood system plan; and

(b) Coordinate services with other services that are coordinated through the plan. The coordination of services shall be consistent with federal and state law.

(3) Preschool children with disabilities shall be considered residents of the service area where the children are currently living, including children living in public or private residential programs, hospitals and similar facilities.

(4) In addition to any other remedy or sanction that may be available, the Superintendent of Public Instruction may withhold funds and terminate the contract of any contractor that fails to comply with any provisions of the contract. [1991 c.749 §8; 1993 c.45 §232; 2001 c.831 §26]

343.480 [1955 c.658 §9; 1961 c.541 §8; repealed by 1965 c.100 §456]

343.485 Confidentiality of records; rules. The State Board of Education shall adopt by rule procedures to insure that the Department of Education and early childhood special education and early intervention contractors maintain as confidential all records relating to preschool children with disabilities, but only to the extent required by federal law. The department and the contractor shall not disclose the records except as provided by rule. [1991 c.749 §9]

343.490 [1955 c.658 §13; 1965 c.100 §422; 1965 c.358 §1; repealed by 1975 c.621 §17]

343.495 Operation of early childhood special education or early intervention programs by department. (1) If no contractor is designated for a service area, and no qualified county agency is available to manage the necessary services or to subcontract the services, the Department of Education may provide early childhood special education and early intervention services in a local, county or service area.

(2) Contractors designated under this section shall:

(a) Participate in the planning process under ORS 417.777 to develop a voluntary local early childhood system plan; and

(b) Coordinate services with other services that are coordinated through the plan. The coordination of services shall be consistent with federal and state law.

(3) Programs operated by the Department of Education must comply with rules adopted by the State Board of Education for early childhood special education and early intervention contractors. [1991 c.749 §10; 1993 c.45 §233; 2001 c.831 §27]

343.498 [1991 c.749 §11; 1993 c.45 §234; repealed by 1993 c.409 §4 (343.499 enacted in lieu of 343.498)]

343.499 State Interagency Coordinating Council; appointment; member qualifications; duties; terms; use of federal funds; department's duties; meetings; conflicts. (1)(a) There is created the State Interagency Coordinating Council.

(b) The Governor shall appoint members of the council from a list of eligible appointees provided by the council and agencies described in subsection (2) of this section and shall ensure that the membership of the council reasonably represents the population of this state.

(c) The Governor shall designate one member of the council to serve as the chairperson, or if the Governor chooses not to name a chairperson, the council may elect one of its members to serve as chairperson. However, any member of the council who represents the Department of Education may not serve as the chairperson of the council.

(2) The membership of the council shall be composed as follows:

(a) At least 20 percent of the council members shall be parents, including minority parents, of preschool children with disabilities or of children with disabilities who are 12 years of age or younger who have knowledge of or experience with programs for infants and toddlers with disabilities. At least one council member shall be a parent of an infant or toddler with a disability or of a child with a disability who is six years of age or younger.

(b) At least 20 percent of the council members shall be public or private providers of early intervention and early childhood special education services.

(c) At least one council member shall be a member of the Legislative Assembly.

(d) At least one council member shall be involved in personnel preparation.

(e) At least one council member shall represent the Department of Human Services.

(f) At least one council member shall represent the federal Head Start program.

(g) At least one council member shall represent the Child Care Division of the Employment Department.

(h) At least one council member shall represent the Department of Education.

(i) At least one council member shall represent the Department of Consumer and Business Services.

(j) At least one council member shall represent the State Commission on Children and Families.

(k) At least one council member shall represent the Child Development and Rehabilitation Center of the Oregon Health and Science University.

(L) At least one council member shall be a member of the State Advisory Council for Special Education created under ORS 343.287.

(m) At least one council member shall be a representative designated by the state coordinator for homeless education.

(n) At least one council member shall represent the state child welfare agency responsible for foster care.

(o) At least one council member shall represent the state agency responsible for children's mental health.

(p) At least one council member shall be from the Oregon Health Authority.

(q) The council may include other members appointed by the Governor, including but not limited to one representative from

the United States Bureau of Indian Affairs or, where there is no school operated or funded by the bureau, from the Indian Health Service or the tribe or tribal council.

(3) An individual appointed to represent a state agency that is involved in the provision of or payment for services for preschool children with disabilities under subsection (2)(e) and (h) to (k) of this section shall have sufficient authority to engage in making and implementing policy on behalf of the agency.

(4) The State Interagency Coordinating Council shall:

(a) Advise the Superintendent of Public Instruction and the State Board of Education on unmet needs in the early childhood special education and early intervention programs for preschool children with disabilities, review and comment publicly on any rules proposed by the State Board of Education and the distribution of funds for the programs and assist the state in developing and reporting data on and evaluations of the programs and services.

(b) Advise and assist the represented public agencies regarding the services and programs they provide to preschool children with disabilities and their families, including public comments on any proposed rules affecting the target population and the distribution of funds for such services, and assist each agency in developing services that reflect the overall goals for the target population as adopted by the council.

(c) Advise and assist the Department of Education and other state agencies in the development and implementation of the policies that constitute the statewide system.

(d) Assist all appropriate public agencies in achieving the full participation, coordination and cooperation for implementation of a statewide system that includes but is not limited to:

(A) Seeking information from service providers, service coordinators, parents and others about any federal, state or local policies that impede timely service delivery; and

(B) Taking steps to ensure that any policy problems identified under subparagraph (A) of this paragraph are resolved.

(e) Advise and assist the Department of Education in identifying the sources of fiscal and other support for preschool services, assigning financial responsibility to the appropriate agencies and ensuring that the provisions of interagency agreements under ORS 343.511 are carried out.

(f) Review and comment on each agency's services and policies regarding services for preschool children with disabilities, or preschool children who are at risk of developing disabling conditions, and their families to the maximum extent possible to assure cost-effective and efficient use of resources.

(g) To the extent appropriate, assist the Department of Education in the resolution of disputes.

(h) Advise and assist the Department of Education in the preparation of applications and amendments thereto.

(i) Advise and assist the Department of Education regarding the transition of preschool children with disabilities.

(j) Prepare and submit an annual report to the Governor and to the United States Secretary of Education on the status of early intervention programs operated within this state.

(5) The council may advise appropriate agencies about integration of services for preschool children with disabilities and at-risk preschool children.

(6) Terms of office for council members shall be three years, except that:

(a) The representative from the State Advisory Council for Special Education shall serve a one-year term; and

(b) The representatives from other state agencies and the representative from the Legislative Assembly shall serve indefinite terms.

(7) Subject to approval by the Governor, the council may use federal funds appropriated for this purpose and available to the council to:

(a) Conduct hearings and forums;

(b) Reimburse nonagency council members pursuant to ORS 292.495 for attending council meetings, for performing council duties, and for necessary expenses, including child care for parent members;

(c) Pay compensation to a council member if the member is not employed or if the member must forfeit wages from other employment when performing official council business;

(d) Hire staff; and

(e) Obtain the services of such professional, technical and clerical personnel as may be necessary to carry out its functions.

(8) Except as provided in subsection (7) of this section, council members shall serve without compensation.

(9) The Department of Education shall provide clerical and administrative support, including staff, to the council to carry out the performance of the council's function as described in this section.

(10) The council shall meet at least quarterly. The meetings shall be announced publicly and, to the extent appropriate, be open and accessible to the general public.

(11) No member of the council shall cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under state law. [1993 c.409 §5 (enacted in lieu of 343.498); 1999 c.989 §24; 2001 c.900 §54; 2005 c.662 §10; 2009 c.595 §216]

343.500 [1955 c.658 §§4,5; 1957 c.219 §2; 1961 c.541 §9; 1965 c.100 §390; renumbered 343.055]

343.503 [1991 c.749 §12; repealed by 1995 c.237 §4]

343.505 [1971 c.602 §2; repealed by 1975 c.621 §17]

343.507 Local early intervention interagency advisory council; members; officers. (1) Each contractor for early childhood special education and early intervention services shall assist in the development of a local early intervention interagency advisory council in every county within the contractor's service area.

(2) Each local early intervention interagency advisory council shall include as members at least 20 percent parents of preschool children with disabilities, 20 percent providers of early childhood special education and early intervention services or other services to preschool children with disabilities, a representative of the State Commission on Children and Families and representatives from public and private agencies that serve young children and their families, including but not limited to Head Start and Oregon prekindergartens, community child care, the Child Care Division of the Employment Department, local school districts, education service districts, Department of Education regional special education programs, community mental health and developmental disabilities programs, Department of Human Services health programs, child welfare programs and public assistance programs, Indian education agencies, migrant programs serving young children and community colleges.

(3) Each local early intervention interagency advisory council shall select its own chairperson and vice chairperson and fix the duties of its officers.

(4) The department shall establish procedures pursuant to rules of the State Board of Education for seeking and considering local council advice regarding the selection of contractors, coordination of services and procedures for local resolution of disputes. [1991 c.749 §13; 1993 c.45 §235; 1995 c.278 §42; 1999 c.989 §25; 2001 c.900 §55]

343.509 [1971 c.602 §3; repealed by 1975 c.621 §17]

343.510 [1955 c.658 §12; repealed by 1965 c.100 §456]

343.511 Interagency agreements to provide services; contents. (1) The Department of Education shall enter into written interagency agreements with state or federal agencies contracting for, or providing services to, preschool children with disabilities or who are at risk of developing disabling conditions, and their families.

(2) Each interagency agreement shall include:

(a) Components necessary to insure effective cooperation and coordination among the agencies involved in providing services to preschool children with disabilities.

(b) A clear description of financial responsibility of the agencies for paying for early childhood special education and early intervention services, case management services and other services to preschool children with disabilities and their families.

(c) Procedures for resolving, in a timely manner, interagency disputes regarding services, eligibility or financial responsibility related to eligible children.

(d) A description of each agency's procedure for resolving internal disputes regarding the agency's services, eligibility determination or financial responsibility.

(e) A process for the Department of Education to follow to achieve resolution of disputes within the agency entering into the agreement with the department, if the given agency is unable to resolve its own internal disputes within 60 calendar days. [1991 c.749 §14]

343.513 Eligibility criteria; rules. The State Board of Education shall establish by rule procedures prescribing the eligibility criteria for early childhood special education and early intervention services. [1991 c.749 §15]

343.515 [1971 c.602 §4; repealed by 1975 c.621 §17]

343.517 Parent-initiated referral to determine eligibility. (1) Whenever the parent of a child believes that the child is eligible for early childhood special education or early intervention services or is concerned about the child's developmental progress, the parent may initiate a referral to the contractor, or the designated referral and evaluation agency, in the county where the child resides.

(2) Services contractors, community agencies or individuals in the community may also assist the family to initiate a referral if they believe that a child is eligible for early childhood special education or early intervention services or they are concerned about the child's developmental progress.

(3) Nothing in this section shall relieve school districts of the duty to identify, locate and evaluate preschool children with disabil-

ities under ORS 343.157. [1991 c.749 §16; 1993 c.45 §236; 1993 c.749 §19]

343.519 [1971 c.602 §10; repealed by 1975 c.621 §17]

343.520 [1955 c.658 §14; repealed by 1965 c.100 §456]

343.521 Individualized family service plan; rules; forms. (1) In accordance with rules of the State Board of Education, the agencies under contract with the Department of Education to provide early childhood special education or early intervention services must ensure that an individualized family service plan is developed for each preschool child with a disability, as defined in ORS 343.035, who is determined eligible for early childhood special education or early intervention services and for the child's family. The Department of Education or its contractors shall not be responsible for the cost of other services of the individualized family service plan that are not early childhood special education or early intervention services.

(2) The State Board of Education shall establish by rule the contents of an individualized family service plan and the procedures for the development, review and revision of an individualized family service plan.

(3) Each agency under contract with the Department of Education to provide early childhood special education or early intervention services shall use the individualized family service plan forms established by the Department of Education in the development, review and revision of individualized family service plans. [1991 c.749 §17; 1993 c.409 §6; 1995 c.237 §2; 1999 c.989 §26; 2003 c.266 §1; 2005 c.662 §11]

343.523 Service coordination requirements for early intervention and early childhood special education. Service coordination shall be provided as an early intervention service or may be provided as other services for children and families in early childhood special education as defined under ORS 343.035 and shall include:

(1) Coordinating all services across agency lines;

(2) Assisting parents of eligible children in gaining access to early intervention services and other services identified in the individualized family service plan;

(3) Facilitating the timely delivery of available services; and

(4) Continuously seeking the appropriate services and situations necessary to benefit the development of each child being served for the duration of the child's eligibility. [Formerly 343.095]

343.525 [1971 c.602 §8; 1975 c.621 §14; renumbered 343.293]

343.527 Requirements for written notice to parents of preschool child with disability; contents of notice; language or mode of communication of parent. (1) A contractor or contractor's designee shall give written notice to the parents of a preschool child with a disability or the parents of a preschool child suspected of having a disability within a reasonable time before the contractor or the contractor's designee:

(a) Proposes to initiate or change the identification, evaluation or placement of the child or the provision of early childhood special education or early intervention services to the child; or

(b) Refuses to initiate or change the identification, evaluation or placement of the child or the provision of early childhood special education or early intervention services to the child.

(2) The written notice must comply with the rules prescribed by the State Board of Education.

(3) The written notice required under subsection (1) of this section shall be:

(a) Written in language understandable to the general public; and

(b) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(4) If the native language or other mode of communication of the parent is not a written language, the contractor or designee shall take steps to ensure:

(a) That the notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;

(b) That the parent understands the content of the notice; and

(c) That there is written evidence that the requirements of this subsection have been met. [1991 c.749 §18; 1995 c.237 §3; 1999 c.989 §27]

343.530 [1971 c.602 §9; 1975 c.621 §15; renumbered 343.287]

343.531 Procedural safeguards; rules. (1) The State Board of Education shall establish by rule the procedural safeguards for the implementation of early intervention services.

(2) The State Board of Education shall assure by rule that all preschool children who are three years of age to eligibility for entry into kindergarten are provided by the Department of Education the same procedural safeguards and rights as those provided to school-age children with disabilities under this chapter. [1991 c.749 §§19,20; 1993 c.409 §7]

343.533 Transportation service to preschool children with disabilities; cost. (1) The Department of Education shall not bill a resident school district for a child receiving services under this section even if the child is served by a county or regional program otherwise subject to ORS 343.243.

(2) The resident school district shall provide transportation service to preschool children with disabilities, as defined in ORS 343.035, age three until the age of eligibility for kindergarten, if such service is determined to be a related service and, as required, to children from birth to three years of age, enrolled in programs under ORS 339.185, 343.035, 343.041, 343.055, 343.065, 343.157 and 343.455 to 343.534, and the district may include those costs in its claims for transportation costs reimbursement by the state. No state agency is required to pay transportation other than the claims on the State School Fund. [Formerly 343.363]

343.534 Allocation of state funds to approved providers. (1) The funds specially appropriated to early childhood special education and early intervention services shall be contracted to providers that have been approved by the Superintendent of Public Instruction.

(2) State funds shall be allocated on an approved program basis, the amount of which shall be established pursuant to rules of the State Board of Education.

(3) The provider shall account for the grant funds as expended on a form acceptable to the superintendent pursuant to rules of the state board. [1991 c.749 §28]

343.535 [1971 c.602 §5; repealed by 1975 c.621 §17]

343.540 [1971 c.602 §6; repealed by 1975 c.621 §17]

343.545 [1971 c.602 §7; repealed by 1975 c.621 §17]

343.550 [1971 c.602 §15; repealed by 1975 c.621 §17]

343.552 [1959 c.218 §1; 1965 c.100 §423; 1965 c.237 §1; 1969 c.109 §1; repealed by 1975 c.621 §17]

343.554 [1959 c.218 §§2,3,10; 1963 c.570 §27; 1965 c.100 §424; 1965 c.237 §2; 1971 c.602 §12; repealed by 1975 c.621 §17]

343.556 [1959 c.218 §§4,8,9; 1965 c.100 §425; 1965 c.237 §3; repealed by 1975 c.621 §17]

343.558 [1959 c.218 §5; 1965 c.100 §426; 1965 c.237 §4; 1971 c.602 §13; repealed by 1975 c.621 §17]

343.560 [1959 c.218 §§6,7; repealed by 1965 c.100 §456]

APPROPRIATE LEARNING MEDIA FOR BLIND STUDENTS (BRAILLE)

343.565 Definitions for ORS 343.565 to 343.595. As used in ORS 343.565 to 343.595:

(1) "Braille" means the system of reading and writing through touch commonly known as standard English Braille.

(2) "Student who is blind" means an individual who:

(a) Is eligible for special education due to visual impairment; or

(b) Has a medically indicated expectation of visual deterioration. [1993 c.380 §2; 1999 c.989 §28]

343.575 Proficiency in reading and writing for blind student; use of Braille. (1) In developing the individualized education program for each student who is blind, the presumption shall be that proficiency in reading and writing is essential for the student to achieve satisfactory educational progress. Each student who is blind shall be assessed to determine the most appropriate learning media, including but not limited to Braille. The individualized education program team shall determine the optimum learning media.

(2) Braille instruction and use are not required by this section if, in the course of developing the student's individualized education program, all members of the team concur that the student's visual impairment does not affect reading and writing performance commensurate with ability.

(3) Nothing in this section requires the exclusive use of Braille if other special education services are appropriate to meet the student's educational needs. The provision of other appropriate services does not preclude Braille use or instruction. [1993 c.380 §3]

343.585 Instruction in Braille; individualized education program requirements. Instruction in Braille reading and writing provided under ORS 342.153 and 343.565 to 343.595 shall be sufficient to enable each student who is blind to communicate effectively. When the need for Braille is determined, the student's individualized education program shall specify the extent and nature of the student's training in Braille, pursuant to standards adopted by rule of the State Board of Education. [1993 c.380 §4]

343.595 Requirement that textbook publishers supply material in format from which Braille version can be produced. The State Board of Education shall require a publisher of a textbook adopted by a school district to furnish the Oregon Textbook and Media Center with computer diskettes for literary subjects in a computer-accessible format from which Braille versions of the textbook can be produced. The publisher shall furnish the center with computer diskettes in a computer-accessible format for nonliterary subjects, such as natural sciences, computer science, mathematics and music, when Braille specialty code translation software is available. [1993 c.380 §5]

343.600 State policy encouraging use of Braille. It shall be the policy of this state that students who are blind and who, due to lack of visual acuity or perception, cannot read printed material at a competitive rate of speed and with facility, or who have a reasonable expectation of visual deterioration, shall be encouraged to learn to read and write Braille. [Formerly 343.945; 2007 c.70 §107]

343.610 [1955 c.15 §1; 1955 c.410 §1; repealed by 1963 c.21 §2]

343.620 [1955 c.15 §2; 1955 c.410 §2; repealed by 1963 c.21 §2]

343.630 [1955 c.15 §3; 1955 c.410 §3; repealed by 1963 c.21 §2]

343.640 [1955 c.410 §4; repealed by 1963 c.21 §2]

DISADVANTAGED CHILDREN

343.650 Definitions for ORS 343.650 to 343.680. As used in ORS 343.650 to 343.680, unless the context requires otherwise:

(1) "Disadvantaged children" means children who in their backgrounds are socially or culturally deprived to such a degree that without supplemental facilities and services they cannot profit in the regular school program to the same extent as children with normal backgrounds.

(2) "Facilities and services":

(a) Means special equipment, materials, supplies and services and regular equipment, materials, supplies and services to the extent that they are specially used or consumed in providing special education for the primary purpose of preventing or overcoming learning deficiencies; and

(b) Includes special classes, special instruction in or in addition to regular classes, nursery schools and kindergartens, extracurricular programs, camp and recreation programs, testing and research programs, orientation programs, counseling and guidance programs, cafeteria service, transportation and the construction and use of special schools or centers, or the construction of additions thereto. [1965 c.531 §1; 1967 c.443 §1]

343.660 Facilities and services for disadvantaged children. The district school board of any school district in which the regular school program is inadequate for the educational needs of disadvantaged children may provide facilities and services for such children during and outside of regular school hours and regular school days. [1965 c.531 §2; 1973 c.707 §4; 1973 c.750 §14]

343.670 Advance payment to districts. Notwithstanding the provisions of any other law, the Department of Education may make advance payment from funds received by the Department of Education pursuant to Public Law 89-10, as further amended by Public Law 95-561, to school districts based on the estimated cost of any approved program or service to be provided. [1965 c.531 §6; 1989 c.491 §43; 1993 c.45 §238]

343.680 Advance payments and reimbursements to districts of at least 40,000 for operation and construction costs. (1) For the purposes of carrying out the provisions of ORS 343.650 to 343.670 the Department of Education shall advance to or reimburse any common or union high school district with at least 40,000 average daily membership, as defined by ORS 327.006, from funds specifically appropriated for such purposes, such amounts as may from time to time be certified by such district as required therefor.

(2) The certificate shall specify separately:

(a) The amounts required for operations; and

(b) The amounts required for construction of special schools or centers, or additions thereto.

(3) The amounts obtained for construction shall be related to progress of construction as determined by the district.

(4) Any amounts remaining unexpended and unobligated as of June 30 of the fiscal year or biennium for which they were appropriated shall revert to the General Fund. [1967 c.443 §3; 1981 c.487 §1; 1993 c.45 §239]

343.685 [1979 c.277 §9; repealed by 1981 c.487 §2]

343.705 [1973 c.724 §2; renumbered 336.790 in 1993]

343.710 [1957 c.206 §1; 1965 c.100 §427; renumbered 336.795 in 1993]

343.720 [1957 c.206 §2; 1959 c.421 §2; 1965 c.100 §428; 1969 c.407 §1; 1969 c.623 §1; 1973 c.724 §3; 1979 c.307 §7; renumbered 336.800 in 1993]

343.730 [1957 c.206 §3; 1959 c.421 §3; 1961 c.658 §1; 1963 c.235 §2; 1965 c.100 §429; 1965 c.549 §1; 1969 c.407 §2; 1969 c.623 §2; 1973 c.724 §4; 1981 c.473 §3; 1983 c.583 §3; 1989 c.491 §44; 1991 c.709 §8; 1993 c.748 §2; renumbered 336.805 in 1993]

343.740 [1957 c.206 §§4,6; 1963 c.97 §8; 1973 c.724 §5; 1975 c.682 §9; 1981 c.473 §4; 1983 c.338 §915; 1983 c.585 §4; 1989 c.966 §27; renumbered 336.810 in 1993]

343.750 [1967 c.296 §1; 1981 c.473 §5; renumbered 336.815 in 1993]

343.760 [1981 c.473 §2; 1983 c.380 §4; 1983 c.338 §916; repealed by 1983 c.583 §8]

MIGRANT CHILDREN

343.810 Definitions for ORS 343.810 to 343.835. As used in ORS 343.810 to 343.835, unless the context requires otherwise:

(1) "Migrant child" means a child between 3 and 21 years of age who is in the custody of migrant workers whether or not they are parents of the child.

(2) "Migrant worker" means an individual engaged in agricultural labor who does not regularly reside in the county in which

the individual is performing the agricultural labor.

(3) "School district" includes education service districts and state institutions. [1961 c.502 §1; 1963 c.570 §30; 1965 c.100 §430; 1987 c.243 §1]

343.815 [1961 c.502 §§2,3; repealed by 1963 c.570 §33]

343.820 [1961 c.502 §4; repealed by 1963 c.570 §33]

343.825 [1961 c.502 §5; repealed by 1963 c.570 §33]

343.830 Summer programs for migrant children. School districts may establish summer programs for migrant children to supplement the regular school program and provide instruction in those educational areas in which the migrant child needs special help. The summer programs may be attended by migrant children who will attend regular school sessions in the ensuing school year. [1961 c.502 §§7,8; 1963 c.570 §31; 1965 c.100 §431]

343.835 Reimbursement; district expenditures not subject to Local Budget Law. Pursuant to rules of the State Board of Education, school districts shall submit a proposed budget for summer programs to the Superintendent of Public Instruction for approval. Upon completion of the summer program the claim shall be presented to the Superintendent of Public Instruction for reimbursement which shall be made only for the actual and approved expenses incurred in the program. Expenditures made by a school district in carrying out a summer program shall not be subject to the Local Budget Law (ORS 294.305 to 294.565). [1961 c.502 §9; 1963 c.570 §31a; 1965 c.100 §432; 1989 c.491 §45]

343.910 [Formerly 343.130; 1965 c.100 §433; repealed by 1993 c.45 §241]

343.920 [Formerly 343.370; repealed by 1959 c.645 §2]

MISCELLANEOUS PROVISIONS

343.923 Department duties for programs for students with moderate to severe retardation. The Department of Education shall:

(1) Pursuant to rules of the State Board of Education, require that programs for students with moderate to severe retardation meet program standards.

(2) Supply the Department of Human Services with information, on forms developed by the Department of Human Services, concerning all students with moderate to severe retardation who are 15 years of age and older, which the Department of Human Services needs to serve and plan for their transition to adult living and work situations.

(3) Implement programs for students with moderate to severe retardation under ORS 343.236 in a manner that continues the pattern of services in neighborhood and community schools which existed on July 1, 1985. [1985 c.555 §12; 1989 c.971 §7; 1991 c.795 §11]

343.925 [1961 c.274 §1; 1965 c.100 §182; renumbered 334.215]

343.926 [1989 c.971 §6; 1991 c.795 §12; repealed by 1991 c.780 §30]

343.930 [Formerly 343.380; repealed by 1959 c.645 §2]

343.940 [Formerly 343.390; 1965 c.100 §434; repealed by 1975 c.693 §21]

343.945 [1989 c.265 §2; renumbered 343.600 in 1993]

343.950 [1957 c.562 §§1,2,3,4,5; 1959 c.645 §1; 1963 c.570 §32; 1965 c.100 §7; renumbered 326.510 and then 343.960]

343.960 [Formerly 343.950 and then 326.510; 1975 c.620 §1; 1977 c.251 §1; 1977 c.586 §1; 1979 c.700 §1; 1981 c.916 §1; repealed by 1985 c.555 §19 (343.961 enacted in lieu of 343.960 and 343.965)]

343.961 Responsibility for costs of education of children in long-term care or treatment; district providing education; notice required before student dismissed from treatment program. (1) The Department of Education shall be responsible for payment of the cost of the education in programs with which the Oregon Health Authority or Oregon Youth Authority contracts for long-term care or treatment. Programs eligible for such education shall be in accordance with criteria adopted by rule by the State Board of Education.

(2) The Department of Education shall be responsible for payment of the costs of such education by contract with the school district, excluding transportation, care, treatment and medical expenses. The resident district shall provide transportation to pupils enrolled in programs under ORS 430.715 who live at home but require day treatment. The payments may be made to the school district or, at the discretion of the school district, to the district providing the education, as set forth in subsection (3) of this section, from the funds appropriated for the purpose.

(3) The school district in which the agency is located is responsible for providing the education directly or through an adjacent school district or through the education service district in which the program is located or one contiguous thereto. The instruction may be given in facilities of such districts or in facilities provided by such agency.

(4) The school district may request the Department of Education to combine several private agency school programs into one contract with a school district, an adjacent school district or an education service district.

(5) The Oregon Youth Authority shall give the school district providing the education at a treatment program 14 days' notice before a student is dismissed from the treatment program.

(6) The Department of Education may make advances to such school district from

funds appropriated therefor based on the estimated agreed cost of educating the pupils per school year. Advances equal to 25 percent of such estimated cost may be made on September 1, December 1 and March 1 of the current year. The balance may be paid whenever the full determination of cost is made.

(7) School districts which provide the education described in this section on a year-round plan may apply for 25 percent of the funds appropriated therefor on July 1, October 1, January 1, and 15 percent on April 1. The balance may be paid whenever the full determination of cost is made.

(8) In addition to the payment methods described in this section, the Department of Education may:

(a) Negotiate interagency agreements to pay for the cost of education in treatment programs operated under the auspices of the State Board of Higher Education; and

(b) Negotiate intergovernmental agreements to pay for the cost of education in treatment programs operated under the auspices of the Oregon Health and Science University Board of Directors. [1985 c.555 §19a; enacted in lieu of 343.960 and 343.965; 1987 c.223 §1; 1989 c.1011 §1; 1991 c.780 §26; 1991 c.795 §13; 1993 c.749 §20; 1997 c.521 §26; 2009 c.595 §217]

343.965 [1973 c.708 §2; 1975 c.50 §1; 1981 c.916 §2; repealed by 1985 c.555 §19 (343.961 enacted in lieu of 343.960 and 343.965)]

343.975 [1975 c.590 §2; 1989 c.491 §46; 1989 c.875 §3; 1993 c.45 §242; repealed by 2001 c.900 §261]

343.980 [1975 c.590 §3; 1989 c.491 §47; repealed by 1997 c.821 §29]

343.990 [Amended by 1953 c.110 §1; subsection (2) of 1963 Replacement Part enacted as 1959 c.510 §19; repealed by 1965 c.100 §456]