

Chapter 427

2015 EDITION

Persons With Intellectual or Developmental Disabilities

	GENERAL PROVISIONS		
427.005	Definitions	427.255	Detention prior to investigation or hearing; care and maintenance while under custody
427.007	Policy; Department of Human Services to facilitate community-based services	427.265	Court to advise person of nature of proceeding and rights; appointment of legal counsel
	DEVELOPMENTAL DISABILITY SERVICES PROGRAM (Eligibility for Services)	427.270	Report of diagnostic evaluation; recommendations of examining facility; appointment of persons to conduct additional examination
427.101	Definitions for ORS 427.115, 427.154 and 427.160	427.275	Fees of persons appointed by court to perform diagnostic evaluations; payment by counties; witnesses; fees; costs
427.104	Developmental disability services; rules	427.280	Treatment given after citation issued; notice to court
427.105	Diagnostic evaluations; contents; purpose; rules	427.285	Witnesses required at hearing; cross-examination
	(Rights of Persons Receiving Services)	427.290	Determination by court of need for commitment; discharge; conditional release; commitment; appointment of guardian or conservator
427.107	Rights of persons receiving developmental disability services; rules	427.293	Disclosure of record of proceeding
427.109	Dispute resolution procedures	427.295	Appeal of commitment order; appointment of legal counsel; costs
	(Comprehensive Services for Adults With Developmental Disabilities)	427.300	Assignment to appropriate facility; notice of transfer or discharge; appeal; hearing
427.115	Assessment of service needs and determination of service rate; rules	427.306	Confinement of committed persons with intellectual disabilities in least restrictive setting; attendants required
427.121	Choice of placement setting		
	(Support Services for Adults With Developmental Disabilities)		
427.154	Individualized written service plan; requirements; rules		
427.160	Support service brokerages		
427.163	Application of savings generated by support service brokerages		
	INVOLUNTARY COMMITMENTS OF PERSONS WITH INTELLECTUAL DISABILITIES		
427.215	Need for commitment	427.330	Definitions for ORS 427.330 to 427.345
427.235	Notice to court of need for commitment; investigation; report and recommendation	427.335	Authority of department to develop community housing; sale of community housing; conditions; financial assistance to providers
427.245	Hearing; citation to appear; notice; right to legal counsel	427.340	Developmental Disabilities Community Housing Fund; Community Housing Trust Account; reports
		427.345	Sale of state training center; fair market value; use of proceeds

GENERAL PROVISIONS

427.005 Definitions. As used in this chapter:

(1) “Adaptive behavior” means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected for age and cultural group.

(2) “Care” means:

(a) Supportive services, including, but not limited to, provision of room and board;

(b) Supervision;

(c) Protection; and

(d) Assistance in bathing, dressing, grooming, eating, management of money, transportation or recreation.

(3) “Community developmental disabilities program director” means the director of an entity that provides services described in ORS 430.664 to persons with intellectual disabilities or other developmental disabilities.

(4) “Developmental disability” means an intellectual disability, autism, cerebral palsy, epilepsy or other neurological condition diagnosed by a qualified professional that:

(a) Originates before an individual is 22 years of age, or 18 years of age for an intellectual disability;

(b) Originates in and directly affects the brain and is expected to continue indefinitely;

(c) Results in a significant impairment in adaptive behavior as measured by a qualified professional;

(d) Is not attributed primarily to other conditions including, but not limited to, a mental or emotional disorder, sensory impairment, substance abuse, personality disorder, learning disability or attention deficit hyperactivity disorder; and

(e) Requires training and support similar to that required by an individual with an intellectual disability.

(5) “Director of the facility” means the person in charge of care, treatment and training programs at a facility.

(6) “Facility” means a group home, activity center, community mental health clinic or other facility or program that the Department of Human Services approves to provide necessary services to persons with intellectual disabilities or other developmental disabilities.

(7) “Incapacitated” means a person is unable, without assistance, to properly manage or take care of personal affairs, including but not limited to financial and medical decision-making, or is incapable, without assistance, of self-care.

(8) “Independence” means the extent to which persons with intellectual disabilities or other developmental disabilities exert control and choice over their own lives.

(9) “Integration” means:

(a) Use by persons with intellectual disabilities or other developmental disabilities of the same community resources that are used by and available to other persons;

(b) Participation by persons with intellectual disabilities or other developmental disabilities in the same community activities in which persons without disabilities participate, together with regular contact with persons without disabilities; and

(c) Residence by persons with intellectual disabilities or other developmental disabilities in homes or in home-like settings that are in proximity to community resources, together with regular contact with persons without disabilities in their community.

(10)(a) “Intellectual disability” means significantly subaverage general intellectual functioning, defined as intelligence quotients under 70 as measured by a qualified professional and existing concurrently with significant impairment in adaptive behavior, that is manifested before the individual is 18 years of age.

(b) An individual with intelligence quotients of 70 through 75 may be considered to have an intellectual disability if there is also significant impairment in adaptive behavior, as diagnosed and measured by a qualified professional.

(c) The impairment in adaptive behavior must be directly related to the intellectual disability.

(d) Intellectual disability is synonymous with mental retardation.

(11) “Intellectual functioning” means functioning as assessed by one or more of the individually administered general intelligence tests developed for the purpose.

(12) “Minor” means an unmarried person under 18 years of age.

(13) “Physician” means a person licensed by the Oregon Medical Board to practice medicine and surgery.

(14) “Productivity” means regular engagement in income-producing work, preferable competitive employment with supports and accommodations to the extent necessary, by a person with an intellectual disability or another developmental disability which is measured through improvements in income level, employment status or job advancement or engagement by a person with an intellectual disability or another developmental disability in work contributing to a household or community.

(15) "Service coordination" means person-centered planning, case management, procuring, coordinating and monitoring of services under an individualized support plan to establish desired outcomes, determine needs and identify resources for a person with developmental disabilities and advocating for the person.

(16) "Significantly subaverage" means a score on a test of intellectual functioning that is two or more standard deviations below the mean for the test.

(17) "Training" means:

(a) The systematic, planned maintenance, development or enhancement of self-care, social or independent living skills; or

(b) The planned sequence of systematic interactions, activities, structured learning situations or education designed to meet each person's specified needs in the areas of physical, emotional, intellectual and social growth.

(18) "Treatment" means the provision of specific physical, mental, social interventions and therapies that halt, control or reverse processes that cause, aggravate or complicate malfunctions or dysfunctions. [1959 c.331 §10; 1961 c.706 §27; 1965 c.339 §1; subsection (2) enacted as 1965 c.595 §5; 1967 c.299 §1; 1979 c.683 §2; 1985 c.463 §1; 1985 c.565 §69; 1991 c.67 §111; 2001 c.900 §126; 2007 c.70 §215; 2009 c.828 §24; 2011 c.720 §§165,234; 2013 c.36 §3]

427.007 Policy; Department of Human Services to facilitate community-based services. (1)(a) Individuals with intellectual and other developmental disabilities and society as a whole benefit when the individuals exercise choice and self-determination, living and working in the most integrated community settings appropriate to their needs, with supportive services that are designed and implemented consistent with the choice of the individuals regarding services, providers, goals and activities. Individuals with developmental disabilities, together with their families and advocates, must play a major role in the planning, designing, funding, operation and monitoring of community services. These services should be ultimately focused on the outcomes of independence, integration and productivity.

(b) The employment of individuals with developmental disabilities in fully integrated work settings is the highest priority over unemployment, segregated employment, facility-based employment or day habilitation.

(c) Support for families with children who have developmental disabilities must be based upon principles of choice and self-determination, with families receiving the support they need to support their children at home. If a child with a developmental dis-

ability cannot remain safely at home even with supportive services, the child should live in a family-like setting with the ability to remain closely connected to the child's family.

(d) Therefore, the Department of Human Services is directed to facilitate, provide or contract for appropriate community-based services, including family support, residential facilities, day programs, home care and other necessary support, care and training programs, in an orderly and systematic manner.

(2) In carrying out the directive in subsection (1) of this section, the department shall develop a biennial plan in conjunction with the budgeting process for review by each Legislative Assembly. In developing this plan, the department shall meet with and consider the input of representatives from the following constituencies: Consumer organizations, parent-family organizations, advocacy organizations, unions representing personal support workers and adult foster home providers, community provider organizations, state and local education officials and community developmental disabilities programs. Such plans shall include, where appropriate:

(a) Proposals for the orderly development of community-based services, including family support, residential facilities, day programs, home care and other necessary support, care and training programs, to accommodate persons eligible for and needing developmental disability services and to serve persons already in the community waiting for services. The proposals shall include services for persons who are leaving the public education system. Funding for these services shall be commensurate with individual need. These proposals may include provisions for an array of both publicly and privately operated services and shall include specific implementation plans requiring that new services developed are designed to significantly increase the independence, productivity and integration into the community of persons with intellectual disabilities or other developmental disabilities.

(b) Proposals for the location of community-based services for persons with intellectual disabilities or other developmental disabilities in proximity to family, friends, supportive services and home communities whenever possible.

(3) In further carrying out the directive in subsection (1) of this section, the department shall develop monitoring and evaluation systems that ensure competent management, program quality and cost-effectiveness of community-based services. Such systems shall include, where appropriate:

(a) A comprehensive system of service coordination that ensures an orderly movement of persons with intellectual disabilities or other developmental disabilities between community-based service alternatives, and ensures an effective system of service delivery to persons with intellectual disabilities or other developmental disabilities living in the community, based on individualized planning and close cooperation with consumers, families and guardians.

(b) Specific standards for each component within the array of services for persons with intellectual disabilities or other developmental disabilities, either operated or supported by the department, that ensure the competent management, program quality and cost-effectiveness of such services.

(4) Subject to available funds, the department shall ensure that each family with a member with an intellectual disability or another developmental disability has access to family support services, and that each person with an intellectual disability or another developmental disability living in the community, including those leaving the public education system, has access to community-based services necessary to enable the person to strive to achieve independence, productivity and integration. Specific services proposed for the person shall be identified in an individual support plan or in a family support service plan.

(5) Subject to available funds, the department shall determine the content of individual support plans and family support service plans, and the process whereby such plans are developed and updated. [1981 c.287 §1; 1985 c.463 §2; 1987 c.353 §1; 1987 c.609 §1; 1989 c.505 §1; 2001 c.900 §127; 2007 c.70 §216; 2011 c.658 §5; 2013 c.36 §4]

427.009 [1987 c.870 §1; repealed by 2001 c.900 §261]

427.010 [Amended by 1953 c.155 §7; 1965 c.339 §2; 1965 c.595 §3; 1969 c.391 §9; 1971 c.75 §1; 1973 c.262 §1; 1973 c.807 §3; 1979 c.683 §6; 1983 c.505 §2; 1983 c.740 §150; 2001 c.900 §128; 2007 c.70 §217; 2009 c.59 §2; 2011 c.658 §6; repealed by 2013 c.36 §73]

427.012 [Formerly 428.548; repealed by 1979 c.683 §37]

427.015 [1961 c.661 §2; 1967 c.534 §21; repealed by 1979 c.683 §37]

427.020 [1979 c.683 §28; 2011 c.658 §7; repealed by 2013 c.36 §73]

427.025 [1961 c.661 §3; 1965 c.339 §3; 1967 c.534 §22; repealed by 1979 c.683 §37]

427.030 [Amended by 1953 c.155 §7; 1957 c.403 §6; 1959 c.331 §7; repealed by 1961 c.661 §20]

427.031 [1979 c.683 §29; repealed by 2013 c.36 §73]

427.035 [1961 c.661 §4; 1965 c.339 §4; repealed by 1979 c.683 §37]

427.040 [Amended by 1953 c.155 §7; repealed by 1961 c.661 §20]

427.041 [Formerly 427.150; 2007 c.70 §218; repealed by 2013 c.36 §73]

427.045 [1961 c.661 §§5,6; 1965 c.339 §5; repealed by 1979 c.683 §37]

427.050 [Amended by 1953 c.155 §7; 1957 c.388 §12; 1961 c.661 §11; renumbered 427.065]

427.051 [Formerly 427.305; 2007 c.70 §219; repealed by 2013 c.36 §73]

427.055 [1961 c.661 §§7,8; 1965 c.339 §6; repealed by 1979 c.683 §37]

427.059 [1961 c.661 §§9,10; 1965 c.339 §7; repealed by 1979 c.683 §37]

427.060 [Amended by 1961 c.661 §12; renumbered 427.067]

427.061 [1979 c.683 §32; 2011 c.658 §8; repealed by 2013 c.36 §73]

427.062 [1969 c.632 §§2,3,4; repealed by 1979 c.683 §37]

427.065 [Formerly 427.050; 1965 c.339 §8; 1975 c.155 §4; 1979 c.683 §12; renumbered 427.195]

427.067 [Formerly 427.060; repealed by 1979 c.683 §37]

427.070 [Amended by 1961 c.661 §13; repealed by 1965 c.339 §27]

427.075 [1969 c.38 §2; repealed by 1979 c.683 §37]

427.080 [Repealed by 1961 c.661 §20]

427.085 [1961 c.661 §15; 1967 c.534 §23; 1969 c.591 §299; repealed by 1979 c.683 §37]

427.090 [Amended by 1961 c.661 §16; 1965 c.339 §9; repealed by 1979 c.683 §37]

427.100 [Amended by 1965 c.339 §10; repealed by 1979 c.683 §37]

DEVELOPMENTAL DISABILITY SERVICES PROGRAM

(Eligibility for Services)

427.101 Definitions for ORS 427.115, 427.154 and 427.160. As used in this section and ORS 427.115, 427.154 and 427.160:

(1) "Adult" means an individual who is 18 years of age or older.

(2) "Community living and inclusion supports" means services that may or may not be work-related and includes services designed to develop or maintain the individual's skills in the following areas:

(a) Eating, bathing, dressing, personal hygiene, mobility and other personal needs;

(b) Self-awareness and self-control, social responsiveness, social amenities, interpersonal skills, interpersonal relationships and social connections;

(c) Community participation, recreation and the ability to use available community services, facilities or businesses;

(d) Expressive and receptive skills in verbal and nonverbal language, the functional application of acquired reading and writing skills and other communication needs; and

(e) Planning and preparing meals, budgeting, laundering, housecleaning and other personal environmental needs.

(3) “Comprehensive services” means a package of services, other than support services for adults, that is provided by or under the direction of a community developmental disabilities program and that includes at least one of the following living arrangements licensed or regulated by the Department of Human Services:

(a) Twenty-four-hour residential care, including but not limited to a group home, a foster home or a supported living program.

(b) Assistance provided to maintain an individual in the individual’s own home or the home of the individual’s family and that costs more than an amount specified by the department by rule.

(4) “Employment services” means services provided to develop or maintain the skills necessary for an individual to obtain and retain employment, including job assessment, job exploration, job development, job training, job coaching, work skills, and on-going supports.

(5) “Environmental accessibility adaptations” means physical modifications to an individual’s home that are necessary to ensure the health, welfare and safety of the individual in the home, or that enable the individual to function with greater independence in the home.

(6) “Individualized written service plan” means a plan described in ORS 427.107 (2)(i), (j) and (k) that identifies the resources, services and purchases necessary for an individual with a developmental disability to achieve identified personal goals and maximize self-determination.

(7) “Person-centered planning” means an informal or formal process for gathering and organizing information that helps an individual to:

(a) Enhance self-determination by choosing personal goals and lifestyle preferences;

(b) Design strategies and networks of support to achieve personal goals and a preferred lifestyle using individual strengths, relationships and resources; and

(c) Identify, use and strengthen naturally occurring opportunities for support in the home and in the community.

(8) “Self-determination” means empowering individuals to:

(a) Select and plan, together with freely-chosen family members and friends, the support services for adults that are necessary instead of purchasing a predefined program or package of services;

(b) Control the expenditure of available financial assistance in order to purchase support services for adults, with the help of a social support network if needed;

(c) Live an autonomous life in the community, rich in community affiliations, through formal or informal arrangements of resources and personnel; and

(d) Have a valued role in the community through competitive employment, organizational affiliations, personal development and general caring for others in the community, and to be accountable for spending public dollars in ways that are life-enhancing for the individual.

(9) “Service provider” means any person who is paid a service rate by the department to provide one or more of the services identified in the individualized written service plan of an adult with a developmental disability regardless of where the service is provided.

(10) “Service rate” means the amount of reimbursement paid to a service provider to care for an adult with a developmental disability.

(11)(a) “Specialized medical equipment and supplies” means:

(A) Devices, aids, controls, supplies or appliances that enable individuals:

(i) To increase their ability to perform activities of daily living; or

(ii) To perceive, control or communicate with the environment in which they live;

(B) Items necessary for life support, including ancillary supplies and equipment necessary to the proper functioning of these items; and

(C) Medical equipment not available in the medical assistance program.

(b) “Specialized medical equipment and supplies” does not include items that have no direct medical or remedial benefit to the individual.

(12) “Specialized supports” means treatment, training, consultation or other unique services that are not available through the medical assistance program but are necessary to achieve the goals identified in the individualized written service plan, or other support services for adults prescribed by the department by rule.

(13) “Support service brokerage” means an entity that contracts with the department to provide or to arrange for support services for adults.

(14) “Support services for adults” means the services for adults with developmental disabilities provided by a support service brokerage under ORS 427.154 and 427.160. [Formerly 427.400]

427.104 Developmental disability services; rules. The Department of Human

Services, with funds appropriated for that purpose by the legislature, shall:

(1) Contract with each community developmental disabilities program to determine the eligibility of individuals to receive developmental disability services;

(2) Provide consultation and training to community developmental disabilities programs in determining eligibility for developmental disability services;

(3) Develop and periodically revise rules for determining eligibility for developmental disability services;

(4) Coordinate diagnostic evaluations statewide to minimize duplication of tests and examinations; and

(5) Provide consultation to appropriate agencies and individuals regarding persons evaluated to receive developmental disability services. [1953 c.631 §1; 1965 c.339 §21; 1971 c.74 §1; 1979 c.683 §13; 2001 c.900 §129; 2009 c.595 §437; 2011 c.658 §9; 2013 c.36 §5]

427.105 Diagnostic evaluations; contents; purpose; rules. (1) Pursuant to rules of the Department of Human Services, a diagnostic evaluation conducted to determine eligibility for developmental disability services may include, but is not limited to, the following:

(a) A social history;

(b) A psychological evaluation, including an appropriate individual test of intellectual capacity, an academic achievement test, a social development assessment and an adaptive behavior assessment; and

(c) A medical evaluation including, if practicable, prenatal, natal, early postnatal and other past and family history.

(2) The diagnostic evaluation shall also attempt to determine the existence of a developmental disability, such as an intellectual disability, epilepsy, cerebral palsy or autism, and specific learning disorders and to outline the most appropriate services for the treatment and training of the person, whether those services are immediately available or not.

(3) A facility approved by the department to conduct diagnostic evaluations may contract with qualified persons to perform components of the evaluation. [1979 c.683 §14; 2013 c.36 §6]

427.106 [1953 c.631 §2; 1965 c.339 §22; 1969 c.53 §1; repealed by 1979 c.683 §37]

(Rights of Persons Receiving Services)

427.107 Rights of persons receiving developmental disability services; rules. (1) As used in this section:

(a) "Facility" means any of the following that are licensed or certified by the Depart-

ment of Human Services or that contract with the department for the provision of services:

(A) A health care facility as defined in ORS 442.015;

(B) A domiciliary care facility as defined in ORS 443.205;

(C) A residential facility as defined in ORS 443.400; or

(D) An adult foster home as defined in ORS 443.705.

(b) "Person" means an individual who has a developmental disability as defined in ORS 427.005 and receives services from a program or facility.

(c) "Program" means a community developmental disabilities program as described in ORS 430.662 and agencies with which the department or the program contracts to provide services.

(d) "Service" means a community-based service described in ORS 427.007.

(2) While receiving developmental disability services, every person shall have the right to:

(a) Be free from abuse or neglect and to report any incident of abuse or neglect without being subject to retaliation.

(b) Be free from seclusion or personal, chemical or mechanical restraints unless an imminent risk of physical harm to the person or others exists and only for as long as the imminent risk continues.

(c) Not receive services without informed voluntary written consent except in a medical emergency or as otherwise permitted by law.

(d) Not participate in experimentation without informed voluntary written consent.

(e) A humane environment that affords reasonable privacy and the ability to engage in private communications with people of the individual's choosing through personal visits, mail, telephone or electronic means.

(f) Visit with family members, friends, advocates and legal and medical professionals.

(g) Participate regularly in the community and use community resources.

(h) Not be required to perform labor, except personal housekeeping duties, without reasonable and lawful compensation.

(i) Seek a meaningful life by choosing from available services and enjoying the benefits of community involvement and community integration in a manner that is least restrictive to the person's liberty considering the person's preferences and age.

(j) An individualized written service plan, services based upon that plan and periodic review and reassessment of service needs.

(k) Ongoing participation in the planning of services, including the right to participate in the development and periodic revision of the plan for services, the right to be provided with an explanation of all service considerations in a manner that ensures meaningful individual participation and the right to invite others of the person's choosing to participate in the plan for services.

(L) Not be involuntarily terminated or transferred from services without prior notice, notification of available sources of necessary continued services and exercise of a grievance procedure.

(m) Be informed at the start of services and annually thereafter of the rights guaranteed by this section, the contact information for the protection and advocacy system described in ORS 192.517 (1), and the procedures for filing grievances, hearings or appeals if services have been or are proposed to be reduced, eliminated or changed.

(n) Be encouraged and assisted in exercising all legal rights.

(o) Assert grievances with respect to infringement of the rights described in this section, including the right to have such grievances considered in a fair, timely and impartial grievance procedure without any form of retaliation or punishment.

(p) Manage the person's own money and financial affairs unless that right has been taken away by court order or other legal procedure.

(q) Keep and use personal property and have a reasonable amount of personal storage space.

(3) The rights described in this section are in addition to, and do not limit, all other statutory and constitutional rights that are afforded all citizens including, but not limited to, the right to exercise religious freedom, vote, marry, have or not have children, own and dispose of property, enter into contracts and execute documents.

(4) A person who is receiving developmental disability services has the right under ORS 430.212 to be informed and to have the person's guardian and any representative designated by the person be informed that a family member has contacted the department to determine the location of the person, and to be informed of the name and contact information, if known, of the family member.

(5) The rights described in this section may be asserted and exercised by the person,

the person's guardian and any representative designated by the person.

(6) Nothing in this section may be construed to alter any legal rights and responsibilities between parent and child.

(7) The department shall adopt rules concerning the rights described in this section that are consistent with the directives set forth in ORS 427.007. [2013 c.36 §1]

Note: 427.107 and 427.109 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 427 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

427.108 [1953 c.631 §3; 1977 c.384 §6; 1979 c.683 §15; 2009 c.595 §437a; repealed by 2013 c.36 §73]

427.109 Dispute resolution procedures. The Department of Human Services shall promote dispute resolution procedures for persons receiving developmental disability services from the department, including but not limited to grievance procedures, contested case hearings and mediation. An individual who files a grievance may also use other dispute resolution procedures. [2013 c.36 §2]

Note: See note under 427.107.

427.110 [Repealed by 1953 c.155 §7]

427.112 [1979 c.683 §30; 2009 c.595 §438; repealed by 2013 c.36 §73]

(Comprehensive Services for Adults With Developmental Disabilities)

427.115 Assessment of service needs and determination of service rate; rules.

(1) The Department of Human Services or its designee shall assess the support needs for each adult with a developmental disability who is receiving comprehensive services that include 24-hour residential care and shall determine a service rate that is sufficient to meet the support needs of the adult. If an assessment of support needs results in a change to the service rate being paid to the service provider, the department or the department's designee shall provide to the adult receiving comprehensive services and the adult's service provider and, if appropriate, to the adult's service coordinator, guardian, primary caregiver or family members, a detailed accounting of the service rate paid to the service provider and the factors and weighting of factors used to determine the service rate.

(2) The department or the department's designee shall assess the support needs and determine the service rate, as described in subsection (1) of this section, no later than 90 days after the adult receiving comprehensive services or the adult's service provider, service coordinator, guardian, primary caregiver, family member or legal representative makes a request, based on significant

changes to the adult's support needs, for a new assessment of support needs and a re-determination of the service rate.

(3) The department shall adopt by rule the procedures and criteria for requesting and conducting an assessment of support needs and a determination of a service rate under this section, using an advisory committee appointed in accordance with ORS 183.333. The rules shall include a procedure for contesting the denial of a request for assessment of support needs and redetermination of a service rate or the failure of the department or the department's designee to respond to a request for assessment and redetermination within a reasonable period of time, as prescribed by the department by rule. [2013 c.604 §2]

427.120 [Amended by 1953 c.155 §7; 1959 c.331 §8; 1965 c.339 §11; repealed by 1979 c.683 §37]

427.121 Choice of placement setting.

(1) As used in this section:

(a) "Adult" means an adult with developmental disabilities who is eligible to receive comprehensive services as defined in ORS 427.101.

(b) "Residential setting" means a living arrangement described in ORS 427.101 (3).

(2) An adult has the right to choose the adult's placement setting. The Department of Human Services or the department's designee shall present to an adult at least three appropriate placement setting options, including at least two different types of residential settings, before:

(a) Making an initial placement.

(b) Transferring the adult from one placement setting to another placement setting.

(3) The department or the department's designee may not transfer an adult from a placement setting without first complying with subsection (2) of this section.

(4) The department or the department's designee is not required to present the options under subsection (2) of this section if:

(a) The department or the department's designee demonstrates that three appropriate placement settings or two different types of residential settings are not available within the geographic area where the adult wishes to reside;

(b) The adult selects a placement setting option and waives the right to be presented with the placement setting options described in subsection (2) of this section; or

(c) The adult is at imminent risk to health or safety in the adult's current placement setting. [2013 c.602 §2]

427.130 [Amended by 1955 c.651 §10; repealed by 1957 c.160 §6]

427.140 [Repealed by 1957 c.388 §17]

427.150 [1953 c.155 §5; 1963 c.411 §1; 1965 c.339 §12; 1969 c.597 §93; 1979 c.683 §27; renumbered 427.041]

**(Support Services for Adults
With Developmental Disabilities)**

427.154 Individualized written service plan; requirements; rules. (1) Support services for adults are intended to meet the needs of adults with developmental disabilities and to prevent or delay their need for comprehensive services. The Department of Human Services shall establish by rule the application and eligibility determination processes for support services for adults.

(2) Support services for adults shall be provided through a support service brokerage and pursuant to an individualized written service plan that is developed and reassessed at least annually using a person-centered planning process.

(3) The department shall ensure that each individual receiving support services for adults has an active role in choosing the services, activities and purchases that will best meet the individual's needs and preferences and to express those choices verbally, using sign language or by other appropriate methods of communication.

(4) The services, activities and purchases available as support services for adults include, but are not limited to:

(a) Community living and inclusion supports that facilitate independence and promote community integration by supporting the individual to live as independently as possible;

(b) Employment services;

(c) Environmental accessibility adaptations;

(d) Specialized supports; and

(e) Specialized medical equipment and supplies.

(5) Support services for adults must complement the existing formal and informal supports, services, activities and purchases available to an adult living in the adult's own home or the home of the adult's family.

(6) The department shall ensure that each individual has the opportunity to confirm satisfaction with the support services for adults that the individual receives and to make changes in the services as necessary.

(7) The department shall ensure that all adults with developmental disabilities receiving comprehensive services have an equal opportunity for job placements. A provider of developmental disability services that offers job placements may not give preference

to an adult with disabilities who is a resident of a facility owned or operated by the provider when determining eligibility for a job placement. The residence of an adult with developmental disabilities may not be the exclusive factor in determining eligibility for a job placement. [Formerly 427.402]

427.160 Support service brokerages. (1) The Department of Human Services shall enter into contracts with support service brokerages to deliver support services for adults in a manner that features regional consolidation, administrative efficiency, cost-effectiveness and strong consumer and family oversight.

(2) Individuals who receive support services for adults and their family members shall have formal, significant, continuing roles in advising the department and support service brokerages regarding the design, implementation and quality assurance of the support services for adults delivery system. [Formerly 427.410]

427.163 Application of savings generated by support service brokerages. The Department of Human Services shall apply any savings generated by support service brokerages developed under the Staley Settlement Agreement to provide services to individuals who are awaiting adult developmental disability support services and who are not receiving any services. [Formerly 427.450]

427.175 [Formerly 427.220; repealed by 2013 c.36 §73]

427.180 [1979 c.683 §8; 2009 c.595 §439; 2011 c.658 §10; repealed by 2013 c.36 §73]

427.185 [Formerly 427.225; 2009 c.595 §440; repealed by 2013 c.36 §73]

427.190 [1979 c.683 §10; 2009 c.595 §441; repealed by 2013 c.36 §73]

427.195 [Formerly 427.065; repealed by 2013 c.36 §73]

427.200 [1953 c.615 §1; repealed by 1957 c.202 §6]

427.205 [1979 c.683 §11; 1989 c.1006 §3; 2007 c.70 §220; 2009 c.11 §61; 2011 c.658 §11; repealed by 2013 c.36 §73]

427.210 [1959 c.331 §1; 1965 c.339 §13; 1973 c.827 §44; repealed by 1979 c.683 §37]

INVOLUNTARY COMMITMENTS OF PERSONS WITH INTELLECTUAL DISABILITIES

427.215 Need for commitment. For the purposes of ORS 427.235 to 427.290, a person with an intellectual disability is in need of commitment for residential care, treatment and training if the person is either:

(1) Dangerous to self or others; or

(2) Unable to provide for the person's basic personal needs and not receiving care as is necessary for the health, safety or habilitation of the person. [1979 c.683 §16; 2001 c.104 §153; 2011 c.658 §12; 2013 c.36 §7]

427.220 [1959 c.331 §2; 1961 c.661 §17; 1965 c.339 §14; 1973 c.277 §1; 1979 c.683 §7; renumbered 427.175]

427.225 [1961 c.661 §19; 1965 c.339 §15; 1973 c.277 §2; 1979 c.683 §9; renumbered 427.185]

427.230 [1959 c.331 §6; 1965 c.339 §16; 1973 c.277 §3; repealed by 1979 c.683 §37]

427.235 Notice to court of need for commitment; investigation; report and recommendation. (1) Any two persons may notify the court having probate jurisdiction for the county or the circuit court, if it is not the probate court but its jurisdiction has been extended to include commitment of a person with an intellectual disability under ORS 3.275, that a person within the county has an intellectual disability and is in need of commitment for residential care, treatment and training. Such notice shall be in writing and sworn to before an officer qualified to administer an oath and shall set forth the facts sufficient to show the need for investigation. The circuit court shall forward notice to the community developmental disabilities program director in the county if it finds the notice sufficient to show the need for investigation. The director or the designee of the director shall immediately investigate to determine whether the person has an intellectual disability and is in need of commitment for residential care, treatment and training.

(2) Any person who acts in good faith shall not be held civilly liable for making of the notification under subsection (1) of this section.

(3) Any investigation conducted by the community developmental disabilities program director or the designee of the director under subsection (1) of this section shall commence with an interview or examination of the person alleged to have an intellectual disability, where possible, in the home of the person or other place familiar to the person. Further investigation if warranted shall include a diagnostic evaluation as described in ORS 427.105 and may also include interviews with the person's relatives, neighbors, teachers and physician. The investigation shall also determine if any alternatives to commitment are available. The investigator shall also determine and recommend to the court whether the person is incapacitated and in need of a guardian or conservator.

(4) The investigation report shall be submitted to the court within 30 days of receipt of notice from the court. A copy of the investigation report and diagnostic evaluation, if any, shall also be made available to the Department of Human Services and to the person alleged to have an intellectual disability and, if the person is a minor or incapacitated, to the parents or guardian of the person as soon as possible after its completion but in any case prior to a hearing held under ORS 427.245.

(5) Any person conducting an evaluation or investigation under this section shall in no way be held civilly liable for conducting the investigation or performing the diagnostic evaluation.

(6) If requested by a person conducting an investigation under this section, a physician who has examined the person alleged to have an intellectual disability may, with patient authorization or in response to a court order, provide any relevant information the physician has regarding the person alleged to have an intellectual disability. [1979 c.683 §17; 2003 c.89 §4; 2009 c.595 §442; 2011 c.658 §13; 2013 c.36 §8]

427.240 [1959 c.331 §3; 1965 c.339 §17; 1969 c.391 §10; 1973 c.277 §4; repealed by 1979 c.683 §37]

427.245 Hearing; citation to appear; notice; right to legal counsel. (1) If the court, following receipt of an investigation report under ORS 427.235, concludes that there is probable cause to believe that the subject of the investigation has an intellectual disability and is in need of commitment for residential care, treatment and training, it shall, through the issuance of a citation as provided in subsection (2) of this section, cause the person to be brought before it at such time and place as it may direct for a hearing to determine whether the person has an intellectual disability and is in need of commitment for residential care, treatment and training. The person shall be given the opportunity to appear at the hearing. If the person is detained pursuant to ORS 427.255, the court shall hold the hearing within seven judicial days.

(2) Upon a determination under subsection (1) of this section that probable cause exists to believe that the person has an intellectual disability and is in need of commitment for residential care, treatment and training, the court shall cause a citation to issue to the person or, if the person is a minor or incapacitated, to the parent or legal guardian of the person. The citation shall state the specific reasons the person is believed to be in need of commitment for residential care, treatment and training. The citation shall also contain a notice of the time and place of the commitment hearing, the right to legal counsel, the right to have legal counsel appointed if the person is unable to afford legal counsel, the right to have legal counsel appointed immediately if so requested, the right to subpoena witnesses in behalf of the person to testify at the hearing, the right to cross-examine all witnesses and such other information as the court may direct. The citation shall be served on the person by the community developmental disabilities program director or the designee of the director delivering a duly certified copy of the original to the person prior to

the hearing. The person, the parents of the person or the legal guardian of the person shall have the opportunity to consult with legal counsel prior to being brought before the court. The community developmental disabilities program director or the designee of the director shall advise the person of the purpose of the citation and the possible consequences of the proceeding. [1979 c.683 §18; 1989 c.242 §1; 2009 c.595 §443; 2011 c.658 §14]

427.250 [1959 c.331 §4; 1965 c.339 §18; 1969 c.391 §11; repealed by 1979 c.683 §37]

427.255 Detention prior to investigation or hearing; care and maintenance while under custody. (1) If the court finds that there is probable cause to believe that the failure to take into custody pending an investigation or hearing a person alleged to have an intellectual disability and be in need of commitment for residential care, treatment and training would pose an imminent and serious danger to the person or to others, the court may issue a warrant of detention to either the community developmental disabilities program director or the sheriff of the county directing that the director, the sheriff or the designee of the director or sheriff take the person into custody and produce the person at the time and place stated in the warrant. At the time the person is taken into custody, the custodian shall advise the person or, if the person is incapacitated or a minor, the parents or guardian of the person of the person's right to counsel, to have legal counsel appointed if the person is unable to afford legal counsel, and, if requested, to have legal counsel appointed immediately.

(2) A person taken into custody under subsection (1) of this section shall be provided all care, custody, evaluation and treatment required for the mental and physical health and safety of the person and the director of the facility retaining custody shall report any care, custody, evaluation or treatment provided the person to the court as required by ORS 427.280. Any diagnostic evaluation performed on such person shall be consistent with Department of Human Services rules and ORS 427.105. Any prescription or administration of drugs shall be the sole responsibility of the treating physician. The person shall have the right to the least hazardous treatment procedures while in custody, and the treating physician shall be notified immediately of the use of any mechanical restraints on the person. A note of each use of mechanical restraint and the reasons therefor shall be made a part of the person's clinical record over the signature of the treating physician. [1979 c.683 §19; 2009 c.595 §444; 2011 c.658 §15]

427.260 [1959 c.331 §5; 1965 c.339 §19; 1973 c.277 §5; repealed by 1979 c.683 §37]

427.265 Court to advise person of nature of proceeding and rights; appointment of legal counsel. (1) At the time that a person who is alleged to have an intellectual disability and to be in need of commitment for residential care, treatment and training is brought before the court, the court shall advise the person of the reason for being brought before the court, the nature of the proceedings and the possible results of the proceedings. The court shall also advise the person of the right to subpoena witnesses and to suitable legal counsel possessing skills and experience commensurate with the nature of the allegations and complexity of the case during the proceedings, and that if the person does not have funds with which to retain suitable legal counsel, the court shall appoint such legal counsel to represent the person. If the person does not request legal counsel, the legal guardian, relative or friend may request the assistance of legal counsel on behalf of the person.

(2) If no request for legal counsel is made, the court shall appoint suitable legal counsel.

(3) If the person is unable to afford legal counsel, the court, if the matter is before a county or justice court, or the public defense services executive director, if the matter is before the circuit court, shall determine and allow, as provided in ORS 135.055, the reasonable expenses of the person and compensation for legal counsel. The expenses and compensation so allowed by a county court shall be paid by the county of residence of the person. The expenses and compensation determined by the public defense services executive director shall be paid by the public defense services executive director from funds available for the purpose. In all cases legal counsel shall be present at the hearing and may examine all witnesses offering testimony, and otherwise represent the person.

(4) The court may, for good cause, postpone the hearing for not more than 72 hours to allow preparation for the hearing and order the continuation of detention authorized under ORS 427.255 during a postponement, if requested by the person, the legal counsel, parent or guardian of the person, an examiner or on the court's own motion. [1979 c.683 §20; 1979 c.867 §13; 1981 s.s. c.3 §135; 2001 c.962 §71; 2011 c.658 §16]

427.270 Report of diagnostic evaluation; recommendations of examining facility; appointment of persons to conduct additional examination. (1) The examining facility conducting the diagnostic evaluation shall make its report in writing to the court. Where components of the diagnostic evaluation have been performed within the previous year according to Department of Human

Services rules and ORS 427.105, and the records of the evaluation are available to the examining facility pursuant to ORS 179.505 and department rules, the results of such evaluation may be introduced in court in lieu of repetition of those components by the examining facility. If the facility finds, and shows by its report, that the person examined has an intellectual disability and is in need of commitment for residential care, treatment and training, the report shall include a recommendation as to the type of treatment or training facility most suitable for the person. The report shall also advise the court whether in the opinion of the examining facility the person and, if the person is a minor or incapacitated, the parents or legal guardian of the person would cooperate with voluntary treatment or training and whether the person would benefit either from voluntary treatment or training or from appointment of a legal guardian or conservator.

(2) Upon request by the person or the parent, legal guardian or legal counsel of the person, the court shall appoint an additional physician or psychologist, or both, to examine the person and make separate reports in writing to the court. However, the court shall not appoint more than one additional physician and one additional psychologist to examine the person. [1979 c.683 §21; 2011 c.658 §17]

427.275 Fees of persons appointed by court to perform diagnostic evaluations; payment by counties; witnesses; fees; costs. (1) Any physician or psychologist employed by the court to make a diagnostic evaluation of a person alleged to have an intellectual disability and to be in need of commitment for residential care, treatment and training, shall be allowed a fee as the court in its discretion determines reasonable for the evaluation. The costs of the evaluation shall be paid by the county of residence of the person or, if the person has no residence within the state, by the county in which the person is taken into custody. The county shall not be held responsible for the costs of prior examinations or tests reported to the court, or of diagnostic evaluations performed or arranged by the community developmental disabilities program or Department of Human Services.

(2) Witnesses subpoenaed to give testimony shall receive the same fees as are paid in criminal cases and are subject to compulsory attendance in the same manner as provided in ORS 136.567 to 136.603. The attendance of out-of-state witnesses may be secured in the same manner as provided in ORS 136.623 to 136.637. The party who subpoenas the witness or requests the court to subpoena the witness is responsible for payment of the cost of the subpoena and pay-

ment for the attendance of the witness at a hearing. When the witness has been subpoenaed on behalf of a person who is represented by appointed counsel, the fees and costs allowed for that witness shall be paid pursuant to ORS 135.055. [1979 c.683 §31; 1987 c.606 §10; 2001 c.962 §72; 2009 c.595 §445; 2011 c.658 §18]

427.280 Treatment given after citation issued; notice to court. The community developmental disabilities program director or, if a person has been detained under ORS 427.255, the director of the facility retaining custody of a person alleged to be in need of commitment for residential care, treatment and training shall fully advise the court of all treatment known to have been administered to the person after a citation has been issued to the person. [1979 c.683 §22; 2009 c.595 §446; 2011 c.658 §19]

427.285 Witnesses required at hearing; cross-examination. The investigator and other appropriate persons or professionals as necessary shall appear at the hearing and present the evidence. The person alleged to have an intellectual disability and to be in need of commitment for residential care, treatment and training shall have the right to cross-examine all witnesses, the investigator and the representative. [1979 c.683 §23; 2011 c.658 §20]

427.290 Determination by court of need for commitment; discharge; conditional release; commitment; appointment of guardian or conservator. After hearing all of the evidence, and reviewing the findings of the investigation and other examiners, the court shall determine whether the person has an intellectual disability and because of the intellectual disability is either dangerous to self or others or is unable to provide for the personal needs of the person and is not receiving care as is necessary for the health, safety or habilitation of the person. If in the opinion of the court the person is not in need of commitment for residential care, treatment and training, the person shall be discharged. If in the opinion of the court the person has, by clear and convincing evidence, an intellectual disability and is in need of commitment for residential care, treatment and training, the court may order as follows:

(1) If the person can give informed consent and is willing and able to participate in treatment and training on a voluntary basis, and the court finds that the person will do so, the court shall order release of the person and dismiss the case.

(2) If a relative, a friend or legal guardian of the person requests that the relative, friend or legal guardian be allowed to care for the person for a period of one year in a place satisfactory to the court and shows

that the relative, friend or legal guardian is able to care for the person and that there are adequate financial resources available for the care of the person, the court may commit the person and order that the person be conditionally released and placed in the care and custody of the relative, friend or legal guardian. The order may be revoked and the person committed to the Department of Human Services for the balance of the year whenever, in the opinion of the court, it is in the best interest of the person.

(3) If in the opinion of the court voluntary treatment and training or conditional release is not in the best interest of the person, the court may order the commitment of the person to the department for care, treatment or training. The commitment shall be for a period not to exceed one year with provisions for continuing commitment pursuant to ORS 427.235 to 427.290.

(4) If in the opinion of the court the person may be incapacitated, the court may appoint a legal guardian or conservator pursuant to ORS chapter 125. The appointment of a guardian or conservator shall be a separate order from the order of commitment. [1979 c.683 §24; 1995 c.664 §97; 2011 c.658 §21; 2013 c.36 §9]

427.293 Disclosure of record of proceeding. (1) In any proceeding conducted under ORS 427.235 to 427.290, the court may not disclose any part of the record, including any report submitted to the court under ORS 427.270, to any person except:

(a) The court shall, pursuant to rules adopted by the Department of State Police, transmit the minimum information necessary, as defined in ORS 181A.290, to the Department of State Police for persons described in ORS 181A.290 (1)(c) to enable the department to maintain the information and transmit the information to the federal government as required under federal law;

(b) On request of the person subject to the proceeding;

(c) On request of the person's legal representative or the attorney for the person or the state; or

(d) Pursuant to court order.

(2) In any proceeding described in subsection (1) of this section that is before the Supreme Court or the Court of Appeals, the limitations on disclosure imposed by this section apply to the appellate court record and to the trial court record while it is in the appellate court's custody. The appellate court may disclose information from the trial or appellate court record in a decision, as defined in ORS 19.450, provided that the court uses initials, an alias or some other convention for protecting against public dis-

closure the identity of the person who is alleged to have an intellectual disability. [1999 c.82 §2; 2009 c.826 §3; 2011 c.332 §§3,6b; 2011 c.547 §46; 2013 c.1 §62; 2013 c.36 §10]

427.295 Appeal of commitment order; appointment of legal counsel; costs. If a person appeals a commitment order issued under ORS 427.290, the court, upon request of the person or upon its own motion and upon finding that the person is financially eligible for appointed counsel at state expense, shall appoint suitable legal counsel to represent the person. The compensation for legal counsel and costs and expenses necessary to the appeal shall be determined and paid by the public defense services executive director as provided in ORS 135.055 if the circuit court is the appellate court or as provided in ORS 138.500 if the Court of Appeals or Supreme Court is the appellate court. The compensation, costs and expenses so allowed shall be paid as provided in ORS 138.500. [1979 c.867 §15; 1981 s.s. c.3 §136; 1985 c.502 §26; 2001 c.962 §73; 2011 c.658 §22]

427.300 Assignment to appropriate facility; notice of transfer or discharge; appeal; hearing. (1) The Department of Human Services may, at its discretion, direct any person with an intellectual disability who has been committed under ORS 427.290 to the facility best able to treat and train the person. The authority of the department on such matters shall be final.

(2)(a) At any time, for good cause and in the best interest of the person, the department may decide to transfer the person from one facility to another or discharge the person as no longer in need of residential care, treatment or training.

(b) At least 30 days prior to the transfer or discharge, the department shall notify, by regular mail, the person and the parent, guardian or other individual entitled to custody of the person of the decision to transfer or discharge. The notice must inform the person of the right to appeal the department's decision to transfer or discharge. In the case of a medical emergency, the department is not required to give 30 days' notice but shall give the notice as soon as possible under the circumstances. The department shall define "medical emergency" by rule, including but not limited to an increase in the level of needed care or the person engaging in a behavior that poses an imminent danger to self or others.

(c) Except in a medical emergency, the person has the right to an administrative hearing prior to an involuntary transfer or discharge. ORS 441.605 (4) and the department's rules governing transfer notices and hearings for residents of long term care facilities apply to a transfer or discharge un-

der this section. If the person is being transferred or discharged for a medical emergency, the hearing must be held no later than seven days after the transfer or discharge. The department shall maintain a space in the facility for the person pending the administrative order.

(3) The department, pursuant to its rules, may delegate to a community developmental disabilities program director the responsibility for assignment of persons with intellectual disabilities to suitable facilities or transfer between such facilities under conditions that the department may define. [1979 c.683 §25; 2009 c.595 §447; 2011 c.658 §23; 2013 c.36 §11]

427.305 [1973 c.585 §2; 1979 c.683 §33; renumbered 427.051]

427.306 Confinement of committed persons with intellectual disabilities in least restrictive setting; attendants required. (1) A person, not incarcerated upon a criminal charge, who has been alleged or adjudged to have an intellectual disability and to be in need of commitment for residential care, treatment and training, may not be confined in any prison, jail or other enclosure where those charged with a crime or a violation of a municipal ordinance are incarcerated.

(2) A person alleged or adjudged to have an intellectual disability and to be in need of commitment for residential care, treatment and training, who is not incarcerated on a criminal charge, may not be confined without an attendant in charge of the person. If the person is not confined in a hospital or a facility, the community developmental disabilities program director or sheriff having the person in custody shall select some suitable individual to act as attendant in quarters suitable for the comfortable, safe and humane confinement of the person. The person shall be detained in the least restrictive setting consistent with the person's emotional and physical needs and the protection of others. [1979 c.683 §26; 2009 c.595 §448; 2011 c.658 §24; 2013 c.36 §12]

427.310 [1973 c.585 §3; repealed by 1979 c.683 §37]

427.315 [1973 c.585 §6; repealed by 1979 c.683 §37]

427.320 [1973 c.585 §4; repealed by 1979 c.683 §37]

427.325 [1973 c.585 §5; repealed by 1979 c.683 §37]

COMMUNITY HOUSING

427.330 Definitions for ORS 427.330 to 427.345. As used in ORS 427.330 to 427.345:

(1) "Care provider" means an individual, family member or entity that provides care.

(2) "Community housing" includes:

(a) Real property, including but not limited to buildings, structures, improvements to real property and related equipment, that is used or could be used to house and provide

care for individuals with intellectual disabilities or other developmental disabilities; and

(b) A single-family home or multiple-unit residential housing that an individual with an intellectual disability or other developmental disability shares with other inhabitants, including but not limited to family members, care providers or friends.

(3) “Construct” means to build, install, assemble, expand, alter, convert, replace or relocate. “Construct” includes to install equipment and to prepare a site.

(4) “Equipment” means furnishings, fixtures, appliances, special adaptive equipment or supplies that are used or could be used to provide care in community housing.

(5) “Family member” means an individual who is related by blood or marriage to an individual with an intellectual disability or other developmental disability.

(6) “Financial assistance” means a grant or loan to pay expenses incurred to provide community housing.

(7) “Housing provider” means an individual or entity that provides community housing. [1999 c.753 §2; 2001 c.900 §130; 2007 c.70 §221; 2011 c.658 §25; 2013 c.36 §13]

427.335 Authority of department to develop community housing; sale of community housing; conditions; financial assistance to providers. (1) The Department of Human Services may, through contract or otherwise, acquire, purchase, receive, hold, exchange, operate, demolish, construct, lease, maintain, repair, replace, improve and equip community housing for the purpose of providing care to individuals with intellectual disabilities or other developmental disabilities.

(2) The department may dispose of community housing acquired under subsection (1) of this section in a public or private sale, upon such terms and conditions as the department considers advisable to increase the quality and quantity of community housing for individuals with intellectual disabilities or other developmental disabilities. The department may include in any instrument conveying fee title to community housing language that restricts the use of the community housing to provide care for individuals with intellectual disabilities or other developmental disabilities. Such restriction is not a violation of ORS 93.270. Any instrument conveying fee title to community housing under this subsection shall provide that equipment in the community housing is a part of and shall remain with the real property unless such equipment was modified or designed specifically for an individual’s use, in which case such equipment shall follow the individual.

(3) The department may provide financial assistance to a housing provider or a care provider that wishes to provide community housing for individuals with intellectual disabilities or other developmental disabilities under rules promulgated by the department.

(4) The department may transfer its ownership of equipment to care providers.

(5) When exercising the authority granted to the department under this section, the department is not subject to ORS 276.900 to 276.915 or 279A.250 to 279A.290 or ORS chapters 270 and 273. [1999 c.753 §3; 2003 c.794 §282; 2007 c.70 §222; 2011 c.658 §26]

427.340 Developmental Disabilities Community Housing Fund; Community Housing Trust Account; reports. (1) There is established a Developmental Disabilities Community Housing Fund in the State Treasury, separate and distinct from the General Fund. All moneys in the Developmental Disabilities Community Housing Fund are continuously appropriated to the Department of Human Services to pay expenses incurred by the Department of Human Services in carrying out the provisions of ORS 427.330 and 427.335. Interest earned on moneys in the fund shall be credited to the fund.

(2) There is established within the fund a Community Housing Trust Account. Notwithstanding the provisions of ORS 270.150, the Department of Human Services shall negotiate with the Oregon Department of Administrative Services to apply the proceeds from the sale, transfer or lease of any surplus real property owned, operated or controlled by the Department of Human Services and used as a state training center to the account. The Department of Human Services may expend, for the purposes of ORS 427.330 to 427.345, any earnings credited to the account, including any income from the lease of surplus property and any interest earned on moneys deposited in the account, and up to five percent of any sale or transfer proceeds initially credited to the account by the Oregon Department of Administrative Services. At least 95 percent of all sale or transfer proceeds shall remain in the account in perpetuity.

(3) The fund shall consist of:

(a) Moneys appropriated to the fund by the Legislative Assembly;

(b) Repayment of financial assistance provided to housing providers or care providers for community housing under ORS 427.335 (3);

(c) Proceeds from the account under subsection (2) of this section;

(d) Moneys reallocated from other areas of the Department of Human Services' budget; and

(e) Any earnings or interest credited to the fund.

(4) Moneys in the Community Housing Trust Account may, with the approval of the State Treasurer, be invested as provided under ORS 293.701 to 293.857, and the earnings from such investments must be credited to the Community Housing Trust Account.

(5) The Department of Human Services shall provide a report of revenues to and expenditures from the fund as part of its budget submission to the Governor and Legislative Assembly under ORS chapter 291. [1999 c.753 §4; 2001 c.954 §32; 2015 c.178 §3]

427.345 Sale of state training center; fair market value; use of proceeds. (1) As used in this section, "state training center"

means any facility that is an intermediate care facility for the mentally retarded as defined in 42 U.S.C. 1396d(d).

(2) When the Department of Human Services sells any surplus real property owned by the department and used as a state training center, the sale price shall equal or exceed the fair market value of the property.

(3) The proceeds from the sale of any real property owned by the department and used as a state training center shall be applied under the provisions of ORS 427.340 (2). [1999 c.753 §5; 2013 c.36 §14]

427.400 [2011 c.658 §1; 2013 c.36 §15; 2013 c.604 §3; renumbered 427.101 in 2013]

427.402 [2011 c.658 §2; 2013 c.602 §3; renumbered 427.154 in 2013]

427.410 [2011 c.658 §3; renumbered 427.160 in 2013]

427.450 [Formerly 430.218; renumbered 427.163 in 2013]