

**STATE BOARD OF EDUCATION – ADMINISTRATIVE RULE SUMMARY**

**Title/OAR #:** Division 15 Residency Rules Citation Update- OARs 581-015-2040, 581-015-2080, and 581-015-2565

**Date:** May 21 , 2015

**Staff/Office:** Claudette Rushing, Office of Learning- Student Services

New Rule       Amend Existing Rule       Repeal Rule

**Hearing Date:** \_\_\_October 28, 2014\_\_\_\_\_  Hearings Officer Report

Attached

**Prompted by:**  State law changes     Federal law changes     Other

**Action Requested:**

First Reading/Second Reading Agenda       Adoption       Adoption/Consent

**PROPOSED/AMENDED RULE SUMMARY:** Changes one citation in three Division 15 Administrative Rules and asks for permanent adoption of the rules, in order to bring the rules into alignment with the current state residency laws including those related to interdistrict transfer which were adopted in June of 2014.

**BACKGROUND:**

In June 2014, the State Board of Education revised the rule governing interdistrict transfer, OAR 581-021-0019. Under the revised rule, the nonresident district is responsible for ensuring a free, appropriate public education (FAPE) in the least restrictive environment (LRE) for students on an Individualized Education Program (IEP).

Amendments are needed to align the following rules with OAR 581-021-0019:

OAR 581-015-2005 – Criteria for Approving School District Special Education

OAR 581-015-2010 – Census and Data Reporting

OAR 581-015-2040 – Free Appropriate Public Education

OAR 581-015-2080 – Child Find

OAR 581-015-2565 – Regional Program Services

[Changes were made to Division 15 OARs last fall which were adopted as temporary rules. These rules now need to be adopted permantly by the State Board. There is also one minor citation update in these rules.](#)

**ISSUES/CONCERNS THAT SURFACED DURING RULE WORK:** No issues or concerns have arisen due to these changes.

**CHANGED SINCE LAST BOARD MEETING?** (so members can focus on what's different)

N/A; first read—hasn't been before board

No; same as last month

Yes – As follows:

Example: In response to public comment, the effective date was pushed back from February 2010 to September 2010.

**FISCAL IMPACT:**

**STAFF RECOMMENDATION:**

Adopt administrative rule as prepared this month

Adopt administrative rule next month

No recommendation at this time (rarely used)

**581-015-2005**

**Criteria for Approving School District Special Education Programs**

(1) School districts operating or initiating special education programs must have their programs approved by the State Superintendent of Public Instruction in order to qualify such programs for state reimbursement. As part of this process, districts must subscribe to the following:

(a) In accordance with OAR 581-015-2245, school districts must ensure that a continuum of alternative placements is available to meet the individual special education and related services needs of all children with disabilities for whom the district is responsible pursuant to ORS 339, OAR 581-021-0019, or open enrollment [under section 9, chapter 718, Oregon Laws 2011 HB 3681](#). For all school purposes residency for children with disabilities enrolled in charter schools is determined in accordance with ORS Chapter 338.

(b) Special education must be established and conducted as an integral part of the district's regular school program.

(c) Children who require special education have the same rights and privileges provided to other students.

(2) In addition, the school district must have on file with the Oregon Department of Education a set of assurances and other documentation as required that ensure district compliance with requirements set forth in Oregon Revised Statutes and Oregon Administrative Rules for the education of children with disabilities.

Stat. Auth.: ORS 343.041, 343.045

Stats. Implemented: ORS 343.221

Hist.: 1EB 208, f. 12-19-75, ef. 1-16-76; Renumbered from 581-022-0175; 1EB 248, f. & ef. 9-23-76; 1EB 269, f. & ef. 12-22-77; 1EB 48-1978, f. & ef. 11-17-78; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0035, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 10-2011(Temp), f. & cert. ef. 8-23-11 thru 2-19-12; ODE 8-2012, f. & cert. ef. 2-17-12; ODE 38-2014(Temp), f. & cert. ef. 9-3-14 thru 3-2-15

**581-015-2010**

**Census and Data Reporting**

(1) Each school district must report to the Department all ~~resident~~ children with disabilities, for whom the district has responsibility for FAPE, who have been identified, located and evaluated and are receiving early intervention, early

childhood special education or special education from a public or private educational program on December 1 of each school year.

(2) Charter School Students. Each school district in which a charter school is located reports children with disabilities enrolled in the charter schools located in the district and receiving services described in (1), regardless of parental residency. Residency for children enrolled in charter schools is determined in accordance with ORS chapter 338.

(3) If no children have been identified, located, and evaluated as being disabled, school districts must report this fact.

(4) Private School Students. Each school district must conduct an annual count of the number of private school children as follows:

(a) On October 1 of each year, each school district must count all children attending private schools located within the boundaries of the district.

(b) On December 1 of each year, each school district must count all parentally placed children with disabilities attending non-profit private schools located within the boundaries of the district, in accordance with OAR 581-015-2475, whether or not these children are receiving equitable special education services as described in OAR 581-015-2460.

(5) School districts must report to the Department additional data as required by the Department for the preparation of reports to federal or state agencies. The Department will notify school districts of additional data needed to meet the requirements of federal or state law and the applicable reporting dates.

Stat. Auth.: ORS 343.041, ORS 343.045 & ORS 343.055;

Stats. Implemented: ORS 343.155, 34 CFR 300.137 & 139

Hist.: 1EB 28-1978, f. & ef. 7-20-78; EB 11-1995, f. & cert. ef. 5-25-95; ODE 16-2000, f. & cert. ef. 5-23-00; Renumbered from 581-015-0151, ODE 10-2007, f. & cert. ef. 4-25-07

## 581-015-2040

### Free Appropriate Public Education (FAPE) and Age Ranges

(1) Except as provided in OAR 581-015-2045, school districts must provide a free appropriate public education all school-age children with disabilities for whom the district is responsible pursuant to ORS 338, ORS 339, OAR 581-021-0019, or open enrollment [under section 9, chapter 718, Oregon Laws 2011HB 3684](#), "School-age children" are children who have reached five years of age but have not yet reached 21 years of age on or before September 1 of the current school year.

(2) An otherwise eligible person whose 21st birthday occurs during the school year is eligible for FAPE for the remainder of the school year.

(3) The requirements of this rule also apply to children with disabilities who have been suspended or expelled from school in accordance with OAR 581-015-2410 to 581-015-2440.

Stat. Auth.: ORS 343.055

Stats. Implemented: ORS 338.165, 343.041, 339.115, 34 CFR 300.101

Hist.: ODE 3-2000, f. & cert. ef. 2-1-00; Renumbered from 581-015-0600, ODE 10-2007, f. & cert. ef. 4-25-07; ODE

10-2011(Temp), f. & cert. ef. 8-23-11 thru 2-19-12; ODE 8-2012, f. & cert. ef. 2-17-12; ODE 38-2014(Temp), f. & cert. ef. 9-3-14 thru 3-2-15

## 581-015-2080

### Child Find

(1) The requirements of this rule apply to all children unless they are no longer entitled to a free appropriate public education under OAR 581-015-2040–581-015-2050.

(2) Pursuant to ORS 338, 339, OAR 581-021-0019, or open enrollment under [section 9, chapter 718, Oregon Laws 2011HB 3681](#) school districts must identify, locate and evaluate all children with disabilities for whom they are responsible, regardless of the severity of the disability, who are in need of early intervention, early childhood special education, or special education services, including:

- (a) Highly mobile children with disabilities (such as migrant and homeless children),
- (b) Children who are wards of the state;
- (c) Indian preschool children who reside on reservations;
- (d) Children who are suspected of having a disability even though they are advancing from grade to grade;
- (e) Children enrolled in public charter schools;
- (f) Children who are home schooled;
- (g) Children below the age of compulsory school attendance who are not enrolled in a public or private school program; and
- (h) Children above the age of compulsory school attendance who have not graduated with a regular high school diploma; and
- (i) Children attending private schools, pursuant to OAR 581-015-2085.

(3) For purposes of this rule, residency is determined in accordance with ORS Chapter 339, except for children enrolled in charter schools. Residency for children enrolled in charter schools is determined in accordance with ORS Chapter 338. The district in which the charter school is located is responsible for child find for students enrolled in the charter school regardless of parental resident district.

(4) The district in which the private school is located is responsible for conducting child find activities for all children enrolled in the private school, in accordance with OAR 581-015-2085, regardless of parental resident district.

Stat. Auth.: ORS 343.041, 343.045, 343.157

Stats. Implemented: ORS 343.045, 343.157, 34 CFR 300.111, 34 CFR 303.302, 34 CFR 301

Hist.: 1EB 269, f. & ef. 12-22-77; 1EB 14-1983, f. 11-23-83, ef. 11-25-83; EB 11-1995, f. & cert. ef. 5-25-95; ODE 16-2000, f. & cert. ef. 5-23-00; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0037, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 10-2011(Temp), f. & cert. ef. 8-23-11 thru 2-19-12; ODE 8-2012, f. & cert. ef. 2-17-12; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12; ODE 38-2014(Temp), f. & cert. ef. 9-3-14 thru 3-2-15

581-015-2565

### Regional Program Services

- (1) Pursuant to ORS 338, ORS 339, OAR 581-021-0019, and open enrollment [under section 9, chapter 718, Oregon Laws 2011+HB 3684](#), the resident school district has the primary responsibility for the education of an eligible school age child, and is responsible for all costs beyond the fiscal capacity of the regional program that result from the full implementation of the child's IEP.
- (2) The Department, through its contractors and subcontractors, has the primary responsibility for early intervention and early childhood special education services for eligible children from birth until eligible for kindergarten, and is responsible for all costs beyond the fiscal capacity of the regional program which result from full implementation of the child's IFSP.
- (3) Eligible children may receive one or more of the following regional services based upon the child's needs according to the IEP or IFSP and available resources of the regional program and agreement of the resident school district or EI/ECSE contractor:
  - (a) Direct services to the child as determined in the IEP/IFSP by an itinerant specialist up to full-time instruction in a self-contained classroom operated by the regional program;
  - (b) Consultation to providers of the child's educational or early intervention/early childhood special education program and/or the parents;
  - (c) Participation in developing the student's IEP or IFSP;
  - (d) Recommendations for classroom activities, materials, equipment, adaptations and modifications to instruction, and/or assessment;
  - (e) Evaluation and interpretation of assessment information;
  - (f) Audiological management;
  - (g) Inservice for staff and parents; and
  - (h) Provision of certain related services.
- (4) Teachers and therapists employed by the regional program to serve eligible children must hold the appropriate special education or appropriate state licensure.
- (5) Regional programs must be in compliance with all applicable statutes and administrative rules pertaining to the education of children with disabilities.

Stat. Auth.: ORS 343.236

Stats. Implemented: ORS 343.236

Hist.: EB 27-1988, f. & cert. ef. 6-9-88; EB 10-1996, f. & cert. ef. 6-26-96; ODE 2-2003, f. & cert. ef. 3-10-03;

Renumbered from 581-015-0296, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 38-2014(Temp), f. & cert. ef. 9-3-14 thru 3-2-1