

RESIDENCY

339.133 Residency of student for school purposes; how determined; transportation of student.

(1) Except as provided in subsection (3), (4), (5) or (7) of this section, children between the ages of 4 and 18 shall be considered resident for school purposes in the school district in which their parents, their guardians or persons in parental relationship to them reside.

(2) Nonemancipated individuals between the ages of 4 and 18 living outside the geographic area of the school district for such reasons as attending college, military service, hospital confinement or employment away from home shall be considered resident in the district in which their parents, their guardians or persons in parental relationship to them reside.

(3) Individuals considered legally emancipated from their parents shall be considered resident in the district in which they actually reside, irrespective of the residence of their parents, their guardians or persons in parental relationship.

(4) Children placed by public or private agencies who are living in licensed, certified or approved substitute care programs shall be considered resident in the school district in which they reside because of placement by a public or private agency.

(5)(a) Notwithstanding subsection (4) of this section, when a juvenile court determines that it is in a child's best interest to continue to attend the school that the child attended prior to placement by a public agency, the child:

(A) Shall be considered resident for school purposes in the school district in which the child resided prior to the placement; and

(B) May continue to attend the school the child attended prior to the placement through the highest grade level of the school.

(b) The public agency that has placed the child shall be responsible for providing the child with transportation to and from school when the need for transportation is due to the placement by the public agency.

(c) Paragraph (b) of this subsection applies only to a public agency for which funds have been designated for the specific purpose of providing a child with transportation to and from school under this subsection.

(6) Persons living temporarily in a school district for the primary purpose of attending a district school may not be considered resident in the district in which they are living temporarily, but shall be considered resident in the district in which they, their parents, their guardians or persons in parental relationship to them maintain residency.

(7) Except as provided in ORS 327.006 (7) and 335.090, persons whose legal residence is not within the district but who attend school in the district with the written consent of the affected district school boards shall be considered to be residents in the district in which the persons attend school for purposes of the receipt by that district of State School Fund moneys for those persons.

(8) For the purposes of this section:

(a) "Person in parental relationship" means an adult who has physical custody of a child or resides in the same household as the child, interacts with the child daily, provides the child with food, clothing, shelter and incidental necessities and provides the child with necessary care, education and discipline. "Person in parental relationship" does not mean a person with a power of attorney or other written delegation of parental responsibilities if the person does not have other evidence of a parental relationship.

(b) "Substitute care program" means family foster care, family group home care, parole foster care, family shelter care, adolescent shelter care and professional group care. [Formerly 332.595; 1997 c.821 §21; 2005 c.521 §1; 2007 c.464 §1; 2009 c.11 §42]

343.961 Responsibility for costs of education of children in day and residential treatment programs; responsibilities of district providing education; notice required before student dismissed from program; payments for education.

Please See House Bill 2501 For Revised 343.961

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 all students in eligible day treatment programs and eligible residential treatment programs under ORS 343.961 for the school year, as determined by the Department of Education based on information received from the Department of Human Services, the Oregon Health Authority, the Oregon Youth Authority and eligible day treatment programs and eligible residential treatment programs.

(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; 2011 c.701 §3]

581-015-2570 Definitions and Purposes of Long-Term Care and Treatment (LTCT) Programs

(1) Definitions in this rule apply to OARs 581-015-2570 to 581-015-2574:

(a) "Contracting school district" means the school district, the education service district, a program operated under the auspices of the State Board of Higher Education, or a program operated under the auspices of the Oregon Health and Science University Board of Directors with which the Department of Education contracts for the provision of educational services.

(b) "Education program" means those activities provided under contract between a contracting school district and the Department of Education, which provide a public education to preschool or school-aged children placed by a public entity, private entity or by the child's parent in a Psychiatric Day Treatment program or a Psychiatric Residential Treatment Facility;

(c) "Intermediate care facility" is defined in ORS 442.015 (21);

(d) "Psychiatric Day Treatment Programs" are defined in OAR 309-032-1505(100);

(e) "Psychiatric Residential Treatment Facility" is defined in OAR 309-032-1505(101).

(f) "Resident district" means the resident district of a student as defined under ORS 339.133 and 339.134.

(g) "Public Entity" means the Oregon Department of Human Services (DHS), Oregon Health Authority (OHA), the Oregon Youth Authority (OYA), Oregon School District, or their designee.

(h) "Treatment program" means the long-term day or residential treatment services provided by a private nonprofit or public agency and provided under contract with a state agency or designee of the state agency. Intermediate care facilities are excluded from this definition.

(2) The purposes of the education program under OARs 581-015-2570 to 581-015-2574 are as follows:

(a) To serve children placed by a public entity, private entity or by the child's parent for needs other than educational;

(b) To serve children placed by a public entity, private entity or by the child's parent who require schooling in a protected environment in order to protect the health and safety of themselves and/or others; and

(c) To extend the treatment process into the school day to fully implement the treatment plans of children placed by a public entity, private entity or by the child's parent.

Stat. Auth. ORS 326.051 & 343.961

Stats. Implemented: ORS 343.961

Hist.: 1EB 23-1986, f. & ef. 7-14-86; EB 7-1988, f. & cert. ef. 1-15-88; EB 22-1990, f. & cert. ef. 5-18-90; EB 10-1991(Temp), f. & cert. ef. 7-15-91; EB 31-1991, f. & cert. ef. 12-18-91; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0044, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 34-2007, f. & cert. ef. 12-12-07; ODE 14-2009, f. & cert. ef. 12-10-09; ODE 15-2011, f. & cert. ef. 12-15-11

581-015-2571 Long-Term Care and Treatment (LTCT) Education Program Eligibility and Approval

(1) The Department of Education shall base education program eligibility on the following:

(a) An agency may offer several different treatment programs serving different populations. For the purposes of determining eligibility for funding and funding levels for education programs, each program will be considered separately. Temporary shelter programs, which would not otherwise meet the eligibility criteria provided in OAR 581-015-2571(1)(b), are eligible for funding only when attached to an eligible treatment program and the children served are primarily awaiting placement in such programs;

(b) To be eligible for an education program, a treatment program must submit an application to the Department's Long-Term Care and Treatment Program demonstrating that the program meets all of the following criteria:

(A) Either:

(i) A letter of approval from the Addictions and Mental Health Division certifying that the psychiatric day treatment program or psychiatric residential treatment facility meets standards applicable for intensive children's mental health services under OAR 309-032-1500; or

(ii) Documentation that the program provides long-term residential treatment of children placed by a state agency or designee of the state agency;

(B) Meet state licensing requirements for a private child-caring agency;

(C) Be operated by a nonprofit corporation or a political subdivision of the state;

(D) Demonstrate through client admissions, staff hiring practices, and client access to services that it meets requirements for ORS 659.850 relating to the prevention of discrimination; and

(E) Demonstrate through curriculum content, teaching practices, and facilities management that the constitutional requirements regarding no religious entanglement are met.

(2) The Department of Education (ODE) is responsible for approving the educational program under this rule and shall base approval on the following:

(a) The contracting school district must ensure that the education program is operated in compliance with a written agreement with the Department that specifies, at a minimum, the following services to be provided:

(A) Each child who is not a child with a disability under OAR 581-015-2130 through 581-015-2180 has a personalized educational plan that includes assessment, goals, services, and timelines;

(B) Information pertaining to students and educational programs is provided to the Department in an accurate and timely manner;

(C) Children have opportunities to be educated in the least restrictive environment;

(D) The education program is developed and implemented in conjunction with the treatment program; and

(E) Other requirements as identified by the Department.

(b) The Department must ensure that the education program is operated in compliance with a written agreement with the contracting school district.

(c) Final determinations concerning the eligibility of treatment programs for education funding are at the discretion of the State Superintendent of Public Instruction.

(3) Funding Procedures: Upon receipt of an application for funding for a program under this rule, the Department of Education will:

(a) Determine if the treatment program meets the eligibility criteria in this rule within 45 business days;

(b) If necessary, request additional funding or a limitation for funding from the State Legislature; and

(c) Fund the program according to the formula in OAR 581-015-2572 only when sufficient funds are available for the program under ORS 343.243 and an appropriation from the General Fund as determined by the Department.

Stat. Auth. ORS 326.051 & 343.961

Stats. Implemented: ORS 343.243 & 343.961

Hist.: ODE 14-2009, f. & cert. ef. 12-10-09; ODE 15-2011, f. & cert. ef. 12-15-11

581-015-2572 Long-Term Care and Treatment (LTCT) Education Program Funding Formula

(1) The Department of Education shall provide funding to education programs based on the following:

(a) For the purpose of allocation of state funds under this rule, the following definitions apply:

(A) "Net operating expenditures (NOE)" means the sum of expenditures as defined in ORS 327.006(6), divided by the average daily membership of the school district, or in the case of an ESD, its districts, which contracts for education services offered in the program;

(B) "Service level factors" means:

(i) 1.75 for students in Psychiatric Day Treatment Programs; or

(ii) 2.00 for students in Psychiatric Residential Treatment Facilities.

(C) "State agency slots" means the number of slots available for students in education programs under ORS 343.961, as determined by the Department based on information received from the Oregon Department of Human Services, the Oregon Health Authority, the Oregon Youth Authority and eligible day treatment programs and eligible residential treatment programs for the school year;

(b) The Department shall use the following formula for distribution of funding: (Service level factors) x [(the contracting district's NOE in year one) x (state agency slots for year one) + (the contracting district's NOE in year two) x (state agency slots for year two)] = total state funding contract amount;

(c) If the total state funding available for all LTCT programs is less than the total state funding needed to fully fund each LTCT contract, the amount of state funding in each contract determined under paragraph (b) of this subsection will be prorated.

(d) A special needs fund is established at the Oregon Department of Education which will be up to five percent of the total state monies made available for the LTCT program during a biennium:

(A) Individual applications may be made to the Department for this fund to cover unexpected, emergency expenses;

(B) Funds not utilized under this paragraph for the first year of the biennium will be carried forward by the Department to the next fiscal year.

Stat. Auth. ORS 326.051 & 343.961

Stats. Implemented: ORS 343.243 & 343.961

Hist.: ODE 14-2009, f. & cert. ef. 12-10-09; ODE 15-2011, f. & cert. ef. 12-15-11

581-015-2573 Due Process Hearings for Long-Term Care and Treatment (LTCT) Education Programs

(1) The following shall apply to Due Process Hearings involving students attending education programs:

(a) The contracting school district is the "school district" for the purposes of carrying out the procedures required by OAR 581-015-2340 through 581-015-2385;

(b) The issues of the hearing do not include the placement by the public entity, private entity or its designee or by the child's parent for long-term treatment;

(c) Costs under OAR 581-015-2385(1)(a) that are in excess of the contracted educational program budget will be paid by the Oregon Department of Education;

(d) The Oregon Department of Education is a party to such proceedings and is responsible to provide additional educational services ordered by an administrative law judge that are beyond the scope of

the written agreement between the Department and the contracting school district under OARs 581-015-2570 through 581-015-2574.

(2) The Department is not responsible for paying for transportation, care, treatment or medical expenses.

Stat. Auth. ORS 326.051 & 343.961

Stats. Implemented: ORS 343.243 & 343.961

Hist.: ODE 14-2009, f. & cert. ef. 12-10-09; ODE 15-2011, f. & cert. ef. 12-15-11

581-015-2574 Resident District Obligations for Students in Long-Term Care and Treatment (LTCT) Education Programs

(1) The resident district must provide or pay for the daily transportation to and from a Psychiatric Day Treatment Program in which a student placed by a public entity, private entity or by the student's parent is enrolled as follows:

(a) The resident district may directly transport or contract for transportation services with the agency, an adjacent school district, an education service district or a private carrier as long as the subcontractor is operating under the provision of ORS 801.455, 801.460, and 820.100 through 820.150, or is exempt from these regulations by operating under the Public Utility Commission, ORS Chapter 767, or city regulations included in ORS Chapter 221.

(b) Subject to agreement with the parent or guardian, the resident district may reimburse a parent or guardian for the transportation of a child at the per mile rate established by that district.

(c) Transportation must be provided by the resident district even when the education calendar of the Psychiatric Day Treatment program differs from that of the resident district.

(2) The resident district may claim reimbursement for transportation costs under ORS 327.033.

(3) The resident district must participate in all individualized education program or personalized education plan meetings involving its students.

Stat. Auth. ORS 326.051 & 343.961

Stats. Implemented: ORS 343.961

Hist.: ODE 14-2009, f. & cert. ef. 12-10-09; ODE 15-2011, f. & cert. ef. 12-15-11