

# Chapter 343

## 1983 REPLACEMENT PART

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**343.010** [Repealed by 1965 c.100 §456]

**343.020** [Repealed by 1953 c.110 §2]

**343.030** [Repealed by 1953 c.110 §2]

## GENERAL

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

(1) "Orthopedically impaired or other health impaired" means a disability which has been diagnosed by a physician licensed by the Board of Medical Examiners for the State of Oregon as permanent or which is expected to extend over a two-month period.

(2) "Handicapped children" means those school age children who are entitled to an education as specified by ORS 339.115 or children who are of the age served by their school districts of residence in the regular education programs of the districts, and who require special education in order to obtain the education of which they are capable, because of mental, physical, emotional or learning problems. These groups include, but are not limited to those categories that have traditionally been designated: Mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired or other health impaired children; individuals who are pregnant; or children with specific learning disabilities.

(3) "Handicapped preschool children" means all children between the time of identification of their handicap and school age who meet the eligibility criteria for early intervention services as established by ORS 343.353.

(4) "Special education" means specially designed instruction to meet the unique needs of a handicapped child, including regular classroom instruction, instruction in physical education, home instruction, related services, and instruction in hospitals, institutions and special schools.

(5) "Related services" includes transportation; and such developmental, corrective and other supportive services (including speech pathology and audiology, psychological services, physical and occupational therapy, special equipment, reader services, volunteer services to enhance special education programs, recreation, and medical and counseling services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a handicapped child to benefit from special education, and includes early identification and assessment of handicapping conditions in

children. [Formerly 343.212; 1977 c.528 §1; 1983 c.731 §1]

**343.040** [Repealed by 1953 c.110 §2]

**343.041 Educational programs for handicapped children to be supervised by Superintendent of Public Instruction.** (1) The Superintendent of Public Instruction shall be responsible for the general supervision of all educational programs for handicapped children within the state, including all such programs administered by any state agency or common or union high school district or education service district.

(2) All educational programs for handicapped children within this state shall meet the standards and criteria established therefor by the State Board of Education.

(3) The Governor shall direct that agencies affected by this section shall enter into cooperative agreements to achieve necessary uniformity in meeting the standards and criteria established by the state board under subsection (2) of this section. [1977 c.528 §3]

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

**343.050** [Repealed by 1953 c.110 §2]

**343.055 Superintendent of Public Instruction to administer special programs.** (1) The Superintendent of Public Instruction shall administer all programs established under this chapter. Subject to the approval of the State Board of Education and the provisions of ORS 342.120 to 342.175 and 342.177 to 342.430, he shall establish rules relative to such other qualifications of teachers, supervisors, work experience coordinators, coordinators of volunteer services and trainers of volunteer personnel, courses of study, admission, diagnosis, eligibility of pupils, size of special facilities, rooms and equipment, supervision, territory to be served, and such other rules as he considers necessary to administer this chapter.

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

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

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

[Formerly 343.500; 1967 c.329 §1; 1975 c.621 §2]

**343.060** [Repealed by 1953 c.110 §2]

**343.065 Superintendent of Public Instruction to employ personnel to supervise special programs.** The Superintendent of Public Instruction shall employ personnel qualified by training and experience to supervise the types of services required by the special programs authorized by this chapter. Personnel so employed shall assist the school districts, county and regional facilities, and hospitals in the organization and development of special programs authorized by this chapter, shall have general supervision of such programs, and shall assist school districts in obtaining required services, equipment and materials, particularly where the number of children is too small to justify district purchase of equipment and materials. [Formerly 343.255]

**343.070** [Repealed by 1953 c.110 §2]

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

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

**343.080** [Repealed by 1953 c.110 §2]

**343.085 Tuition prohibited.** Except as provided in ORS 343.730 relating to driver instruction, no tuition shall be charged to any resident student participating in any special program authorized by this chapter. [1965 c.100 §394]

**343.090** [Repealed by 1965 c.100 §456]

**343.100** [Repealed by 1965 c.100 §456]

**343.110** [Repealed by 1965 c.100 §456]

**343.120** [Repealed by 1965 c.100 §456]

## CHILD DEVELOPMENT

### 343.125 Child development specialist.

(1) The district school board of every school district operating any elementary schools may make the services of a child development specialist available to the pupils enrolled in the elementary schools.

(2) A child development specialist shall provide primary prevention services throughout a child's environment directly or in cooperation with others:

(a) To pupils enrolled in the elementary school, with priority given at the primary level, including kindergarten, to assist them in developing positive attitudes toward themselves and others in relation to life career roles and to assure that assessment and screening procedures are provided for the early identification of talents and strengths on which to base a positive learning experience for each child.

(b) To the professional staff of the elementary school to assist them in early identification of pupils enrolled therein with learning or developmental problems.

(c) To parents of pupils enrolled in elementary schools to assist them in understanding their children's unique aptitudes and needs and to aid in relating home, school and neighborhood experiences.

(d) To refer pupils enrolled in the elementary school to appropriate state or local agencies for additional assistance.

(e) To coordinate resources available through the community and the school.

(3) School districts may provide the services authorized or required under this section by contract with qualified state or local programs. [1973 c.730 §2; 1981 c.878 §1]

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

**343.135 State reimbursement for costs.** (1) Following the close of each fiscal quarter for which reimbursement is claimed, any district making the services of a child development specialist available pursuant to ORS 343.125 in a state approved program shall file a verified claim with the Superintendent of Public Instruction for the reimbursement as designated in the notice of allotment for the costs incurred by the district in providing the services of the child development specialist.

(2) If the Superintendent of Public Instruction approves the application for reimbursement, the superintendent shall cause the district to be reimbursed in the amount claimed in accordance with the state approved program provided in subsection (1) of this section. In no case shall the state reimbursement exceed 75 percent of the approved annual cost of the program nor shall the state's expenditure exceed the amount appropriated by the Legislative Assembly for this purpose. [1973 c.730 §3; 1981 c.878 §2]

**343.140** [Repealed by 1965 c.100 §456]

**343.145 State board guidelines; qualification for child development specialist.**

(1) The State Board of Education by rule shall establish guidelines for implementation of ORS 343.125 and 343.135, including but not limited to qualifications for child development specialists and procedures for community coordination of efforts. Such qualifications and procedures shall not be limited to traditional treatment oriented disciplines or the various disciplines requiring certification.

(2) Exceptions to the qualifications established by the state board may be made if the state board determines after a hearing that an individual is capable of performing the required functions. [1973 c.730 §4]

**343.150** [Repealed by 1965 c.100 §456]

**DETERMINATION OF  
ELIGIBILITY FOR SPECIAL  
EDUCATION**

**343.153 Definitions for ORS 343.153 to 343.187.** As used in ORS 343.153 to 343.187:

(1) "Decision" means the decision of the hearings officer which shall be final unless reviewed by the Superintendent of Public Instruction.

(2) "Determination" means the determination by the school district concerning the identification, preplacement or annual evaluation, individual education plan or placement of a handicapped child in a program paid for by the district.

(3) "Order" has the meaning given in ORS 183.310 to 183.550.

(4) "Parent" means the parent or legal guardian, other than a state agency, of the child or the surrogate for the parent appointed pursuant to ORS 343.185.

(5) "School district" means a common or union high school district, an education service district or a state agency or institution that is charged with the duty or contracted with by a public agency to care for or educate, or both, children apparently eligible for special education.

(6) "Superintendent" means the Superintendent of Public Instruction or the designee of the Superintendent of Public Instruction. [1979 c.423 §2 (enacted in lieu of 343.077)]

**343.155 State rules relating to eligibility.** The Department of Education shall establish by rule procedures to protect the rights

of every handicapped child who is eligible for special education and every child who there is a reasonable cause to believe is handicapped, including:

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

(a) Rules applicable whenever the parents of the child are unknown or unavailable or when there is reasonable cause to believe that the child is handicapped and is a ward of the state; and

(b) Rules prescribing procedures applicable to situations where a parent is uncooperative or unresponsive to the special education needs of the child.

(2) Rules prescribing hearings procedures if identification, evaluation, individual education plan or placement is contested. [1979 c.423 §3 (enacted in lieu of 343.077)]

**343.157 Application for admission to special education program.** (1) At any time a parent who has reasonable cause to believe that the child is eligible for special education may apply on behalf of the child to the school district wherein the child resides for admission of the child into a special education program.

(2) The school district or any employe thereof may also initiate the application if the district or employe has reasonable cause to believe that a child in the district is eligible for special education. However, in common or union high school districts or education service districts, employes may initiate the application only pursuant to procedures prescribed by the district. [1979 c.423 §4 (enacted in lieu of 343.077)]

**343.160** [Repealed by 1965 c.100 §456]

**343.163 Preplacement evaluation; notice of eligibility.** (1) Upon receipt of the application, the school district shall commence an appropriate preplacement evaluation of the child to determine the eligibility of the child for special education. The evaluation shall be completed within a reasonable time after application is made. After the evaluation is completed, the school district shall notify the parent of its determination that the child is eligible or not eligible for special education.

(2) The notice must be in writing, and must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. If the native language or other mode of communi-

cation of the parent is not a written language, the school district shall take steps to insure:

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

(b) That a reasonable effort is made to aid the parent in understanding the content of the notice; and

(c) That there is written evidence that the requirements of this subsection have been met.

(3) The notice shall indicate whether the district intends:

(a) To place the child in a particular special education program;

(b) To deny such placement;

(c) To transfer the child to such a program; or

(d) To transfer the child from such a program.

(4) The notice shall also contain an explanation of the right of the parent to contest the identification, preplacement or annual evaluation, individual education plan or the intended placement of the child and shall request parental consent to the intended placement. If the parent consents in writing to the intended placement, the child shall be so placed. [1979 c.423 §5 (enacted in lieu of 343.077)]

**343.165 Procedure if parent does not consent or contests recommendation; hearing.** (1) If the parent withholds or refuses consent to identification, preplacement or annual evaluation, individual education plan or placement, the school district shall follow procedures prescribed in rules of the Department of Education to act when consent is not obtained.

(2) A hearing shall be conducted pursuant to rules of the Department of Education if the parent:

(a) Contests the determination of the school district concerning identification, preplacement or annual evaluation, individual education plan or placement; or

(b) Claims that the result of the determination of the district is to deny the child free appropriate education.

(3) The department's rules in subsection (2) of this section shall be as consistent as possible with the procedures applicable to a contested case under ORS 183.310 to 183.550. However, the department's rules shall prohibit the introduction of any evidence at the hearing that has not been disclosed to both parties at least five days before the hearing. The parent shall be

entitled to have the child who is the subject of the hearing present at the hearing and to have the hearing open to the public.

(4) The school district may also commence the contested case proceedings to obtain a decision whether its identification, preplacement or annual evaluation, individual education plan and placement are appropriate or whether the result of the determination of the district is to provide the child with free appropriate education. [1979 c.423 §6 (enacted in lieu of 343.077)]

**343.167 Result of hearing.** (1) If the finding at the hearing held under ORS 343.165 is that the identification, preplacement or annual evaluation, individual education plan and placement by the district are appropriate and that the child is being provided a free appropriate education, the hearings officer shall decide in support of the determination of the district.

(2) If the finding at the hearing is that the identification, preplacement or annual evaluation, individual education plan or placement is not appropriate or that the child is not being provided a free appropriate education, the hearings officer shall decide that the school district shall revise or modify its placement in order to provide the child with a free appropriate education.

(3) The decision shall be entered not later than 45 days after the request for hearing is filed unless an extension has been granted by the hearings officer at the request of the parent or the school district. Copies of the decision shall be sent to the parent and to the school district accompanied by a statement describing the method of appealing the decision. Any hearings held under ORS 343.165 must be conducted by an independent hearings officer who is not a regular employe of the school district or the Department of Education. [1979 c.423 §7 (enacted in lieu of 343.077)]

**343.170** [Repealed by 1965 c.100 §456]

**343.173 Parental rights; costs.** (1) Notwithstanding the limitation on access to records under ORS 192.410 to 192.500 and 336.185 to 336.215, the parent is entitled at any reasonable time to examine all of the records of the school district pertaining to placement of the child.

(2) Any parent is entitled to obtain an independent evaluation either before or during the contested case proceedings under ORS 343.165 or before or during an appeal to the Superintendent of Public Instruction under ORS 343.175, if:

(a) The parent disagrees with the identification, preplacement or annual evaluation, individual education plan or placement of the child by the district; and

(b) The parent claims that the child is entitled to but is not being provided a free appropriate education.

(3) If the hearings officer under ORS 343.165 or the Superintendent of Public Instruction under ORS 343.175 decides that the independent evaluation requires the determination of the school district to be revised significantly, the parent is entitled to have the costs of the independent evaluation that are incurred by the parent paid for by the school district. However, no child is entitled to be the subject of more than one independent evaluation paid for by the district in any given school year.

(4) If the parent is unable to pay for an independent evaluation or seeks a second independent evaluation, and the Department of Education decides that the parent is unable to pay for such an evaluation and has cause to seek such an evaluation, the department may pay for an independent evaluation.

(5) If the department pays for an independent evaluation that produces the result described in subsection (3) of this section, then the department may bill the school district for the cost of the independent evaluation so long as the district has not already paid the costs of an independent evaluation of the particular child during the current school year. [1979 c.423 §8 (enacted in lieu of 343.077)]

**343.175 Review by reviewing officer; order; appeal.** (1) Notwithstanding ORS 183.480, the decision of the hearings officer under ORS 343.165 shall be reviewed by a reviewing officer appointed by the Superintendent of Public Instruction:

(a) Upon request therefor by the parent;

(b) If the school district refuses to accept the decision of the hearings officer and notifies the Superintendent of Public Instruction of that refusal; or

(c) If the school district fails to implement the decision within 10 days and the superintendent is notified of that failure by the parent, unless the superintendent extends the time in exceptional cases for a reasonable period.

(2) The superintendent shall appoint a reviewing officer pursuant to rules of the State Board of Education. The reviewing officer shall conduct an impartial review, examining the entire record of the hearing and determining whether the procedure at the hearing was con-

sistent with the requirements of law. The reviewing officer may seek additional evidence to be presented if the officer finds the record to be inadequate. The parent and the school district shall be given an opportunity to present written and oral argument, or both.

(3) At the conclusion of the review, the reviewing officer shall enter a written final order modifying, sustaining or reversing the decision of the hearings officer.

(4) The order entered under this section shall be entered not later than 30 days after receipt of the request for the review unless an extension has been granted by the reviewing officer upon the request of the parent or the school district.

(5) Either the parent or the school district may appeal the order of the reviewing officer to the Court of Appeals under ORS 183.480. [1979 c.423 §9 (enacted in lieu of 343.077); 1983 c.731 §9]

**343.177 Effect of contest of placement; change of placement; temporary exclusion of child.** (1) If the placement of the child has been contested under ORS 343.165:

(a) The child shall remain in the then current educational program placement until the proceedings are completed if the child is in an educational program.

(b) The child shall be placed with the consent of the parent in a program provided or selected by the district at the district's expense until the proceedings are completed if applying for initial admission to a public school.

(2) The provisions of paragraphs (a) and (b) of subsection (1) of this section do not apply if the parent and the school district agree to temporary placement in some other program.

(3) After completion of the proceedings as described in ORS 343.165 to 343.175, the decision regarding placement of the child shall be considered final unless the placement is changed:

(a) Pursuant to the annual evaluation of the individual educational program of the child;

(b) By agreement of the parent and the school district;

(c) If a significant change occurs in the condition of the child; or

(d) If there is new or additional significant evidence that the identification, preplacement, annual or independent evaluation, the individual education plan, or placement of the child is not consistent with a free appropriate education for that child.

(4) Nothing in ORS 343.153 to 343.177 is intended to prevent the temporary exclusion of a

child from the public schools if the condition or conduct of the child constitutes an imminent danger to the health or safety of the child or others. However, no pregnant child shall be excluded from the public schools solely on the basis of pregnancy. [1979 c.423 §10 (enacted in lieu of 343.077)]

343.180 [Repealed by 1965 c.100 §456]

**343.183 Effect of school district failure to comply.** (1) In addition to and not in lieu of any other sanction that may be imposed against a noncomplying school district, the Department of Education may withhold all or any part of the funds otherwise due a district for special education until the district complies with the requirements of ORS 343.153 to 343.185.

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

**343.185 Recruitment and appointment of surrogate parents; liability; qualification.** (1) The Department of Education, in cooperation with the State Advisory Council for Handicapped Children, shall consult with other organizations that represent the interests of handicapped children to secure nominations of persons to serve as surrogates. The nominees must then be approved by the Department of Education and the department shall maintain a list of approved nominees that shall be made available to school districts. Appointments of surrogates by other than school districts are not required to be made from the approved list. However, an appointing authority which does not use the list must assure that the surrogate is independent and unbiased. A surrogate so appointed may be challenged for bias. The department in cooperation with the council shall establish procedures to insure that surrogates have or can acquire the necessary knowledge and skills to represent the parent to protect the special educational rights of the child.

(2) Whenever the parents of the child are unknown or unavailable or when there is reasonable cause to believe the child is handicapped, and is a ward of the state, the school district shall appoint an individual to serve as a surro-

gate. The individual must be on the approved list of nominees, as provided in subsection (1) of this section, and shall act as a surrogate for the parent or guardian of the child in protecting the special educational rights of the child. If the district is unwilling or unable to do so, the Department of Education shall appoint an individual to act as a surrogate. A child is entitled to have a surrogate appointed to serve until whichever of the following occurs first:

(a) The child is 21 years of age;

(b) The child is determined to be no longer eligible for special education; or

(c) The juvenile court terminates wardship of the child and determines that the child's parent or guardian is both known and available to protect the special educational rights of the child.

(3) Where a parent in writing consents thereto, a surrogate may be appointed in situations other than those described in subsection (2) of this section.

(4) If a person appointed as a surrogate is no longer able or willing to serve, the person shall notify the appointing authority who shall appoint another surrogate.

(5) Any person appointed as a surrogate pursuant to this section or any other law shall not be held liable for actions taken in good faith on behalf of the parent in protecting the special educational rights of the child.

(6) A person appointed as surrogate shall not be an employe of the appointing authority or of the Department of Education.

(7) Nothing in this section prevents the appointment of a surrogate in a manner otherwise provided by law. [1979 c.423 §12 (enacted in lieu of 343.077); 1983 c.294 §1]

**343.187 Rules governing special education for pregnant children.** In addition to any other rules which may be adopted pursuant to ORS 343.155, the Department of Education shall establish by rule procedures for considering and obtaining special education for pregnant children. Such rules shall include, but not be limited to, the obligation of the school district to:

(1) Inform pregnant students and their parents of the students' rights to special educational services under this section and the availability of such services in the school district or education service district;

(2) Facilitate the provision of related services, including counseling, to pregnant students; and

(3) Inform pregnant students and their parents of the availability of resources provided by other agencies, including health and social services. [1979 c.423 §14 (enacted in lieu of 343.077)]

**343.190** [Repealed by 1965 c.100 §456]

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

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

(3) Upon receipt of a report under subsection (1) of this section, the Superintendent of Public Instruction shall verify whether the child is enrolled in a special education program and may cause an investigation, including an evaluation under ORS 343.227, to be made to determine whether the child is eligible for a program under ORS 343.221 or 343.236.

(4) As used in this section, "public or private official" has the meaning given in ORS 418.740. [1979 c.836 §6; 1983 c.740 §108]

**343.200** [Repealed by 1965 c.100 §456]

**343.210** [Repealed by 1955 c.721 §1]

## HANDICAPPED CHILDREN

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

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

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

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

**343.220** [Repealed by 1953 c.710 §23]

**343.221 Special education required.** In order to provide special education for handicapped children, the district school board of any school district in which there are school age children who require special education:

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

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

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

(a) The district school boards jointly agree to provide special education.

(b) The school districts within the education service district approve the contract by a resolution adopted in the manner provided in ORS 334.175 (2).

(c) Any school district within the education service district contracts with the education service district in the manner provided in ORS 334.175 (3) for such special education.

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

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

(6) May contract for the provision of related services by a person in private practice if that person is registered, certified or licensed by the State of Oregon as qualified to provide a particular related service that requires registration, certification or licensing by the state. [1959 c.510 §4 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part); 1963 c.403 §1; 1965 c.100 §399; 1975 c.621 §6; 1977 c.529 §1; 1981 c.393 §2; 1983 c.731 §2]

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

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

**343.227 How eligibility determined; when medical or visual examination may be required.** (1) In order to receive special education, a handicapped child shall be determined eligible for such services under a school district program approved under ORS 343.045

and as provided under ORS 343.221. Eligibility requires a determination made on the advice of qualified educational and medical authorities which shall include a medical examination and parental consent as specified in ORS 343.153 to 343.187. However:

(a) The district school board may waive a medical examination of children whose eligibility is being considered for special education because of speech defects, learning problems or mild behavioral problems.

(b) A medical or visual examination may be required when the children have received special education but have not made satisfactory progress therein.

(2) The examinations required by subsection (1) of this section shall be given: (a) In the case of the medical examination, by a physician licensed to practice by a state board of medical examiners; and (b) in the case of the visual examination, by an ophthalmologist or optometrist licensed by a state board. [1965 c.100 §398; 1975 c.621 §5]

**343.230** [Repealed by 1953 c.710 §23]

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

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

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

### **343.236 County or regional programs.**

The Superintendent of Public Instruction may provide special education on a county or regional basis without regard to county boundaries if he considers it more economical or effective to do so. The Superintendent of Public Instruction may operate and administer a county or regional program of special education or he may delegate full responsibility for the operation and administration of the program to a school district or to the education service district board, to the county school board or to the administrative school district board having jurisdiction over an entire county. A district which assumes such responsibility shall be reimbursed for the costs thereof from funds provided for special education. [1965 c.100 §401; 1975 c.621 §7]

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

**343.240** [Repealed by 1953 c.710 §23]

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

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

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

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

**343.250** [Repealed by 1953 c.710 §23]

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

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

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

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

**343.260** [Repealed by 1953 c.710 §23]

**343.261 Instruction of hospitalized handicapped children.** The Superintendent of Public Instruction, in cooperation with the hospital authorities, shall establish classes and appoint teachers for children under 21 years of age in the state hospitals for the mentally ill, the Oregon Health Sciences University hospitals and clinics, Shriners Hospital for Crippled Children, Providence Child Center, Emanuel Hospital Burn Center and Easter Seal School and Treatment Center in Eugene, and shall assume the responsibility for observation and supervision of instruction, the provision of instructional supplies, and the payment of teachers' salaries from funds provided for special education. This responsibility may be delegated to a school district. When a school district assumes such responsibility, it shall be reimbursed for cost thereof from funds provided for special education. [1959 c.510 §10 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part); 1965 c.100 §402; 1975 c.621 §8; 1975 c.693 §2; 1979 c.737 §1]

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

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

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

**343.270** [Repealed by 1953 c.710 §23]

**343.271 Centers for teacher training and consultation.** The Superintendent of Public Instruction, in cooperation with the State Board of Higher Education, may establish in the state institutions of higher learning approved by the Teacher Standards and Practices Commission for the preparation of teachers, centers which will assist in the preparation of special teachers and which will provide consultant, evaluative, and instructional services in education to school districts and to handicapped children. Funds appropriated for education of handicapped children may be used to help defray costs to such centers. [1959 c.510 §12 (343.211 to 343.291 enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part); 1965 c.100 §403; 1971 c.602 §11; 1975 c.621 §9]

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

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

**343.277 Payment of costs where district does not provide special education.** Any school district which enrolls a child in a district other than that in which he would be regularly enrolled in order to obtain special education, shall contribute to the district in which he is enrolled a sum equal to the cost of educating the child in the district in which he is enrolled. [1965 c.100 §405; 1971 c.449 §5]

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

**343.280** [Repealed by 1953 c.710 §23]

**343.281 State reimbursement; limitation on amount.** Reimbursement to all districts for operation and administration of district special education programs approved by the Superintendent of Public Instruction under ORS 343.035 and 343.221 shall be made subject to the following provisions:

(1) A district shall submit by June 30 to the Superintendent of Public Instruction an estimate of the costs of providing special education for the following school year.

(2) A district which provides special education shall file with the Superintendent of Public Instruction, on or before October 1 following the close of the school year for which reimbursement is claimed, a claim and such other information as

may be required by the Superintendent of Public Instruction for reimbursement for which it is eligible for the cost of operation and administration of special education.

(3) If the Superintendent of Public Instruction approves the claim of a district for reimbursement, he shall reimburse the district in addition to the Basic School Support Fund 30 percent of the approved cost of providing special education for the school year for which reimbursement is claimed, or its equal prorated share of funds available, but not to exceed 30 percent of the district's approved cost of special education. If an education service district provides the special education programs, the superintendent shall reimburse the education service district 30 percent of the approved cost of providing special education for the school year for which reimbursement is claimed, or its equal prorated share of funds available, but not to exceed 30 percent of the education service district's approved cost of special education.

(4) Beginning with the 1977-1978 school year, the Superintendent of Public Instruction may distribute the funds provided for the education of handicapped children as provided in this chapter on an advance payment system which would allow him to distribute these funds in the year in which the expenses occurred. Computation of the amounts due each district operating a special education program shall be made by the Superintendent of Public Instruction pursuant to rules of the State Board of Education. The rules shall establish a method of computation and payment.

(5) A school district which provides special education by paying tuition for an eligible, resident handicapped child to a private school for handicapped children approved by the State Board of Education and which expends more on tuition than the regular per capita cost for educating nonhandicapped pupils in the district, may claim reimbursement for the amount such special education tuition costs exceed the per capita cost of the district.

(6) Districts may not claim state reimbursement under ORS 343.035 to 343.055, 343.153 to 343.187, 343.221 to 343.271 and 343.281 to 343.295 for the per capita cost assessments for the education of resident handicapped pupils in a state operated or state supported school (a) under ORS 343.305 and 343.307 or (b) in cases where a per capita cost assessment is billed directly to the district.

(7) Where minimum determination of the eligibility of a child for special education requires a determination by qualified medical authorities

or optometrists, as specified in ORS 343.227 or requires an evaluation under the provisions of ORS 343.221 (5), the cost of such determination may be claimed for reimbursement by the district when such cost is incurred by the district.

(8) Approved costs for special education mean all expenditures approved by the Superintendent of Public Instruction in accordance with administrative regulations established by the State Board of Education made by a school district or education service district for providing instructional services for handicapped children in, or in addition to, regular classes.

(9) The cost of state supported programs for handicapped children in ORS 343.236, 343.261 and 343.271, for which operation and administration is delegated through contractual agreements to school districts, education service districts or state institutions of higher learning, shall be reimbursed from funds provided for that purpose. [1959 c.510 §15 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part); 1965 c.100 §406; 1969 c.519 §1; 1975 c.621 §10; 1977 c.714 §7]

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

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

**343.287 State Advisory Council for Handicapped Children.** (1) There is created a State Advisory Council for Handicapped Children, consisting of not less than nine members appointed by the Superintendent of Public Instruction. Members must include handicapped individuals, parents or guardians of handicapped children, educators of handicapped children, state and local education officials, administrators of programs for handicapped children and other persons associated with or interested in the education of handicapped children. Members shall be representative of the geographic areas of the state. The superintendent shall consider recommendations from the local councils in making appointments.

(2) The State Advisory Council for Handicapped Children shall review aspects of the state-wide program of education of the handicapped and advise the Superintendent of Public

Instruction and the State Board of Education on such programs. The council also shall advise the Superintendent of Public Instruction and the State Board of Education of unmet needs in the education of handicapped children, comment publicly on any rules or regulations proposed for issuance by the Department of Education concerning special education and the distribution of funds for special education, and shall assist the state in developing and reporting data and evaluations concerning special education.

(3) Terms of office shall be three years with one-third of the members being appointed each year.

(4) Out of the funds appropriated to the Department of Education, the department shall reimburse members for necessary travel and other expenses under ORS 292.210 to 292.288.

[Formerly 343.530; 1977 c.30 §1]

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

**343.290** [Repealed by 1953 c.710 §23]

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

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

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

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

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

**343.295 Document of successful completion.** The school district shall award to handicapped children a document certifying successful completion of program requirements. No document issued to handicapped children educated in full or in part in a special education program shall indicate that the document is

issued by such a program. [1975 c.621 §3]

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

**343.300** [Repealed by 1953 c.710 §23]

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

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

**343.305 Computation of operating expenditures for certain programs.** (1) The Superintendent of Public Instruction shall determine annually the operating expenditures per resident average daily membership of the educational programs operating at the Oregon State School for the Blind and at the Oregon State School for the Deaf, and of all programs operating under ORS 343.236, 343.261 and 343.960. The computation of operating expenditures shall include that portion of administrative costs connected with the school program, instruction, operation of school plant, maintenance of school plant and fixed charges associated with the school program, less tuition received and amounts received under ORS 346.042.

(2) For purposes of this section and ORS 343.307:

(a) Average daily membership is the total days membership of Oregon resident pupils in an educational program referred to in subsection (1) of this section divided by total days taught.

(b) A child who has attained the age of majority shall be considered resident of that county in which the child resides on the date the child enrolls in the educational program. A minor child shall be considered resident of that county in which the parent or person in parental relationship to the child resides on the date the child enrolls in the educational program. If the child is a ward of a court or an approved child-caring agency, the child shall be considered resident of that county in which the parent or person in parental relationship to the child resided on the date the child became a ward. If the residency of any child remains in question, the determination of residency for that child shall be made by the Superintendent of Public Instruction in such manner as the superintendent considers satisfactory and such determination shall be final for purposes of administering this section and ORS 343.307.

(3) Nothing in this section is intended to create a liability in any county beyond the amount available therefor in the county school

fund. [1971 c.449 §1; 1973 c.827 §33; 1979 c.639 §5; 1979 c.700 §2]

**343.307 Billing and payment from county school fund.** (1) Not later than March 1 of each year the Superintendent of Public Instruction shall notify the executive officer of the administrative office for the county, as defined in ORS 328.001, of the estimated cost of educating children resident of that county in one of the educational programs referred to in ORS 343.305 during the current fiscal year. The executive officer shall consider that estimate as an obligation to be met from the county school fund for the following fiscal year and shall prepare his estimate of receipts of each school district for budget purposes in recognition of that obligation.

(2) Not later than August 15 of each year the Superintendent of Public Instruction shall submit to the executive officer of the administrative office for the county, as defined in ORS 328.001, a billing for the cost of educating children resident of that county in one of the educational programs referred to in ORS 343.305 during the prior fiscal year. The executive officer shall notify the county treasurer of the billing. The county treasurer shall pay the amount of the billing from the county school fund to the Superintendent of Public Instruction not later than December 15 following that August 15. The Superintendent of Public Instruction shall deposit all moneys received by him under this subsection in the General Fund in the State Treasury to be available for payment of the general expenses of the state.

(3) The billing submitted by the Superintendent of Public Instruction under subsection (2) of this section shall be in an amount that is the lesser of:

(a) The actual cost of educating children resident of the county in one of the educational programs referred to in ORS 343.305 during the prior fiscal year; or

(b) The net operating expenditures per resident pupil in average daily membership of all school districts reporting to the administrative office for the county multiplied by the average daily membership of all pupils of the same school districts participating in the educational programs referred to in ORS 343.305. For purposes of this paragraph, net operating expenditures per resident pupil in average daily membership shall be determined by the Superintendent of Public Instruction based upon data for the second school year prior to the year for which the billing applies. [1971 c.449 §2]

343.310 [Repealed by 1953 c.710 §23]

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

343.320 [Repealed by 1953 c.710 §23]

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

343.330 [Repealed by 1953 c.710 §23]

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

343.340 [Repealed by 1953 c.710 §23]

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

343.350 [Repealed by 1953 c.710 §23]

### EARLY INTERVENTION SERVICES

**343.353 Policy for early intervention services.** (1) It is the policy of the State of Oregon to provide early intervention services to handicapped preschool children immediately upon identification of their handicapping condition for purposes of fostering their developmental growth, maximizing their potential for independent functioning in society and reducing the stress of their families.

(2) In carrying out the provisions of subsection (1) of this section, the Department of Education and the Mental Health Division shall establish by rule criteria by which to determine those handicapped preschool children entitled to early intervention services under ORS 339.185, 343.035, 343.175, 343.221 and 343.353 to 343.367. These criteria shall focus on children with disabilities that can be expected to continue indefinitely, and that cause a substantial delay in the children's development and their ability to function in society.

(3) In the manner provided in subsection (5) of this section, the Department of Education and the Mental Health Division shall provide early intervention services to handicapped preschool children determined eligible for such services under rules established pursuant to subsection (2) of this section. Early intervention services are programs of treatment and habilitation designed to address a child's developmental deficits in sensory, motor, communication, self-help and socialization areas. Such services may include classroom training, parent training and consultation, transportation to classroom program, and other ancillary services such as physical therapy, occupational therapy and speech therapy. These services shall be provided within the limit of funds specifically appropriated or authorized for the services.

(4) An individual program plan shall be developed annually for each child receiving early

intervention services which contains specific and measurable goals and objectives for the child's developmental growth. The plan shall be developed at an annual planning meeting with the participation of the parents of the child or a representative and professionals with specialized knowledge related to the child's disabilities. A representative of the resident school district of the child shall participate in the planning meeting the last year before the child enters school.

(5) The Mental Health Division shall provide early intervention for handicapped preschool children with mental retardation and other developmental disabilities and the Department of Education shall provide early intervention services to all other eligible preschool children directly or by contract with public or private agencies. The two agencies shall coordinate their activities to assure the effective and efficient delivery of services.

(6) The Mental Health Division and the Department of Education shall establish procedures for mediation of disputes concerning eligibility for or appropriateness of services in individual cases, conduct of hearings relating to eligibility or appropriateness and for any other due process or procedural requirements that may result from the implementation of ORS 339.185, 343.035, 343.175, 343.221 and 343.353 to 343.367. Insofar as possible the procedures shall be uniform. The division and the department, respectively, shall be the answering party in any proceedings under ORS 339.185, 343.035, 343.175, 343.221 and 343.353 to 343.367. [1983 c.731 §4]

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

**343.357 Coordinating Council for Early Intervention Services.** (1) The Department of Education and the Mental Health Division shall establish jointly a Coordinating Council for Early Intervention Services. The Superintendent of Public Instruction and the Assistant Director for the Mental Health Division, or their designees, shall serve on this council and each shall appoint one recognized expert in early intervention services for handicapped preschool children. Additionally, the superintendent and the assistant director shall appoint jointly one representative of a major consumer advocacy group that represents the interests of handicapped children and one representative of a provider group serving handicapped preschool children.

(2) The coordinating council shall meet at least semiannually and shall insure that the department and the division:

(a) Set appropriate standards for early intervention services.

(b) Implement and maintain standardized state-wide program evaluation systems, which measure individual child progress, program compliance with standards and overall program effectiveness.

(c) Implement and maintain a state-wide central registry of early intervention services.

(3) The coordinating council shall:

(a) Report to the Legislative Assembly on the effectiveness of early intervention services; and

(b) Conform any procedures it institutes with the requirements imposed pursuant to ORS 343.353 (6).

(4) Members of this council shall not be eligible for subsistence and mileage allowances under ORS 292.495. [1983 c.731 §5]

**343.360** [Repealed by 1953 c.710 §23]

**343.363 Payment of program costs by district; billing; limitation; transportation costs.** (1) The resident school district of a handicapped preschool child who participates in or receives services from a program established under ORS 339.185, 343.035, 343.175, 343.221 and 343.353 to 343.367 shall contribute an amount equal to the actual cost of these services or one-half of the state-wide average per capita cost for school students in Oregon, whichever is lesser. The average per capita amount shall be determined by the Superintendent of Public Instruction based upon the previous school year. Districts shall be billed quarterly by the department and payment shall be made to the department to be deposited in the General Fund and continuously appropriated to the department to pay expenses of the program whether incurred directly or as reimbursement to any other state agency. The liability of a resident school district shall not exceed the amount established under this subsection even if the child is served through a county or regional program otherwise subject to ORS 343.305.

(2) School districts shall provide transportation services to handicapped preschool children attending programs under ORS 339.185, 343.035, 343.175, 343.221 and 343.353 to 343.367 and may include those costs in their claims for transportation costs reimbursement under ORS 327.035. No state agency is required to pay transportation other than the claims on the Basic School Support Fund. [1983 c.731 §6]

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

**343.367 When district liable for costs.** School districts shall not be financially responsible for noneducational care of a handicapped child unless that district has participated in development of the child's individualized education plan that clearly documents such care is prerequisite to the child receiving a free and appropriate education and the placement is for educational program needs, rather than care needs. [1983 c.731 §7]

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

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

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

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

**343.390** [Renumbered 343.940]

## TALENTED AND GIFTED CHILDREN

**343.391 Purpose of ORS 343.391 to 343.404.** The purpose of ORS 343.391 to 343.404 is to facilitate the identification and education of talented and gifted children. [1959 c.528 §1; 1963 c.570 §21; 1971 c.613 §1; 1979 c.385 §1]

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

**343.395 Definitions for ORS 343.391 to 343.404.** As used in ORS 343.391 to 343.404, unless the context requires otherwise:

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

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

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

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

(5) "School district" has the same meaning as in ORS 330.005 (2) and also includes, where appropriate, an education service district or a consortium of school districts submitting a joint plan.

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

(7) "Talented and gifted children" means those children who require special educational programs or services, or both, beyond those

normally provided by the regular school program in order to realize their contribution to self and society and who demonstrate outstanding ability or potential in one or more of the following areas:

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

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

(c) Creative ability in using original or non-traditional methods in thinking and producing.

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

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

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

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

**343.397 Plan for improvement of instruction or curriculum for talented and gifted children.** Any school district may submit to the superintendent for approval a written plan of instruction for talented and gifted children. The plan shall include, but not be limited to:

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

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

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

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

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

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

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

(3) The superintendent shall select applications from among those that comply with ORS 343.391 to 343.404 and rules adopted by the board. Any criteria used by the superintendent to evaluate applications shall include, but not be limited to:

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

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

(c) A detailed budget for the program expenditures.

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

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

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

**343.401 Use of funds appropriated for ORS 343.391 to 343.404.** (1) The funds specifically appropriated for the program under ORS 343.391 to 343.404 shall be distributed to districts that have approved, written plans and have submitted an application to the superintendent which has been approved.

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

(3) No application shall be approved by the superintendent unless the district agrees to expend district funds for special educational programs for talented and gifted children in an amount equal or greater than the amount of state funds approved by the superintendent.

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

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

**343.404 Funding for program development.** (1) The superintendent may annually expend funds appropriated for the talented and gifted program to provide program development to support talented and gifted education state wide.

(2) These services may include:

(a) Teacher training programs and workshops;

(b) Consultant and technical assistance to districts; and

(c) Planning and development assistance.

(3) The amount of funds that may be expended for purposes described in this section shall not exceed five percent of the amount appropriated in a biennium for purposes of ORS 343.391 to 343.404. [1971 c.613 §6; 1979 c.385 §6; 1981 c.833 §1]

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

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

## EARLY CHILDHOOD EDUCATION

**343.415 Definitions for ORS 343.415 to 343.435.** As used in ORS 343.415 to 343.435:

(1) "Approved program" means an early childhood education program approved by the Department of Education.

(2) "Early childhood education" means educational programs that conform to the standards adopted by the State Board of Education and that are designed for the education and training of children who are at least three years of age but have not passed their ninth birthday, and includes all special educational programs established and operated under this chapter. [1975 c.455 §2]

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

### **343.425 Operating guides; approval.**

(1) The Department of Education shall prepare operating guides for early childhood education programs applicable to programs under ORS 343.415 to 343.435 that are consistent with requirements imposed by the State Board of Education for grades kindergarten through three.

(2) The Department of Education shall review applications for approval of early child-

hood education programs and may approve those prekindergarten programs after considering:

(a) The educational adequacy and type of program.

(b) The number of children who will be served by the program.

(c) The availability of trained personnel and facilities.

(d) The need for the program in the applying district. [1975 c.455 §3]

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

**343.435 How district may provide early childhood education.** Subject to the approval of the Superintendent of Public Instruction:

(1) The district school board of any school district in which there are resident children who are three years of age or older but who have not attained compulsory attendance age and who are not enrolled in a kindergarten of the district may:

(a) Provide early childhood education for such children as part of the district's educational program; or

(b) When the board considers a contract to be economically feasible and in the interests of the learning opportunities of eligible children, contract for instruction of such children in a school district operating an approved early childhood education program, subject to such reimbursement as the districts may agree.

(2) An education service district may operate an approved early childhood education program in the same manner as programs are provided under ORS 334.175 or 334.185. [1975 c.455 §4]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## DISADVANTAGED CHILDREN

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

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

(2) "Facilities and services":

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

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

**Note:** 343.650 to 343.680 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 343 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

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

**Note:** See note under 343.650.

**343.670 Advance payments.** Notwithstanding the provisions of any other law, the State Board of Education may make advance payment from funds received by the Department of Education pursuant to Public Law 89-10, to school districts based on the estimated cost of any approved program or service to be provided. [1965 c.531 §6]

**Note:** See note under 343.650.

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

(2) The certificate shall specify separately (a) the amounts required for operations and (b) the amounts required for construction of special schools or centers, or additions thereto. The

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

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

Note: See note under 343.650.

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

## STUDENT DRIVER TRAINING

**343.705 Definitions for ORS 343.705 to 343.750.** As used in ORS 343.705 to 343.750, unless the context requires otherwise:

(1) "Facility" means any facility for the deaf operated under ORS 346.010, the Hillcrest School of Oregon and the MacLaren School for Boys.

(2) "Private school" means a private or parochial high school.

(3) "Public school" means a common or union high school district and a community college district. [1973 c.724 §2]

**343.710 Student driver training program.** A student driver training program shall be conducted in order to facilitate the policing of the streets and highways of this state and to reduce the direct cost thereof by educating youthful drivers in safe and proper driving practices. [1957 c.206 §1; 1965 c.100 §427]

**343.720 School course in automobile driver instruction.** (1) Any private or public school or facility may offer a course in automobile driver instruction. The course of instruction shall be devoted to the study and practice of the rules of the road, the safe and proper operation of motor vehicles, accident prevention and other matters which promote safe and lawful driving habits and reduce the need for intensive highway policing. The course shall include classroom instruction and instruction in dual control automobiles. No pupil shall participate in behind-the-wheel instruction unless the pupil is enrolled in or has completed a course in classroom instruction.

(2) A person employed to teach a course in automobile driver instruction must meet qualifications established by the Teacher Standards and Practices Commission. However, a person employed to give behind-the-wheel driver instructions is not required to hold a teaching certificate under ORS 342.135 (1), (2) and (3). [1957 c.206 §2; 1959 c.421 §2; 1965 c.100 §428; 1969 c.407 §1;

1969 c.623 §1; 1973 c.724 §3; 1979 c.307 §7]

**343.730 State reimbursement.** (1) Each public school or facility offering a course in automobile driver instruction shall keep accurate records of the cost thereof in the manner required by the Superintendent of Public Instruction. Each public school or facility shall be reimbursed on the basis of the number of pupils completing the course, including any private school pupils completing the course in the public school, to the extent of the lesser of the following schedules:

(a) 90 percent of the cost of conducting the course, or if tuition is charged, 90 percent of the cost after deducting tuition; or

(b) \$100 per pupil completing the course, including any private school pupil completing the course in a public school.

(2) If funds available to the Motor Vehicles Division for the Student Driver Training Fund are not adequate to pay all approved claims in full, public schools and facilities shall receive a pro rata reimbursement based upon the ratio that the total amount of funds available bears to the total amount of funds required for maximum allowable reimbursement. [1957 c.206 §3; 1959 c.421 §3; 1961 c.658 §1; 1963 c.235 §2; 1965 c.100 §429; 1965 c.549 §1; 1969 c.407 §2; 1969 c.623 §2; 1973 c.724 §4; 1981 c.473 §3; 1983 c.583 §3]

**343.740 Student Driver Training Fund.** (1) There is created the Student Driver Training Fund. All payments required under ORS 343.710 to 343.750 and 482.250 (5) and all expenses incurred in the administration of those sections shall be made to and borne by the fund.

(2) The Superintendent of Public Instruction shall annually distribute the funds available in the Student Driver Training Fund in the manner provided in ORS 343.730.

(3) The Motor Vehicles Division shall make periodic studies to determine the effectiveness of automobile driver instruction programs conducted under authority of ORS 343.705 to 343.750. [1957 c.206 §§4, 6; 1963 c.97 §8; 1973 c.724 §5; 1975 c.682 §9; 1981 c.473 §4; 1983 c.585 §4]

**343.750 Contract with private driver training school.** Any school district may contract with a lawfully licensed private driver training school for the instruction of students enrolled in a driver training course in the school in the portion of the course involving actual operation of motor vehicles. [1967 c.296 §1; 1981 c.473 §5]

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

**MIGRANT CHILDREN**

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

(1) "Migrant child" means a child of compulsory school age who is in the custody of migrant workers whether or not they are his parents.

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

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

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

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

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

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

**343.835 Reimbursement; not subject to Local Budget Law.** School districts shall submit a proposed budget for summer programs to the State Board of Education for approval. Upon completion of the summer program the claim shall be presented to the Superintendent of Public Instruction for reimbursement which shall be made only for the actual and approved expenses incurred in the program. Expenditures made by a school district in carrying out a summer program shall not be subject to the Local Budget Law (ORS 294.305 to 294.520). [1961 c.502 §9; 1963 c.570 §31a; 1965 c.100 §432]

**MISCELLANEOUS PROVISIONS**

**343.910 Homemaking and agricultural education in cities over 8,000 population.** (1) The governing body of any city of at least 8,000, according to the latest federal census, the district school board of a school district situated in whole or in part within such city, and the governing body of the county in which such city is situated, may, either singly or in combination, appropriate funds for the employment of home demonstration agents and

boys' and girls' 4-H club agents to conduct educational programs among city youth and homemakers in the sciences of homemaking, agriculture and related arts and sciences.

(2) The State Board of Higher Education, through its federal cooperative extension service, may receive and administer such funds, administer all personnel and programs provided for in this section and use any funds not otherwise budgeted to cooperate with such cities, school districts and counties in carrying out this section. The funds may be provided either by special provision in the annual tax levy of such city, school district or county or by the appropriation of funds not otherwise appropriated. The funds shall be paid to the State Board of Higher Education for deposit with the State Treasurer and expenditure within such city under the supervision of the federal cooperative extension service of Oregon State University and may be used for the payment of expenses and a part of the salary of one or more home demonstration agents or 4-H club agents in accordance with a budget mutually agreed upon between the governing body of such city, school district or county and the federal cooperative extension service.

[Formerly 343.130; amended by 1965 c.100 §433]

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

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

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

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

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

**343.960 Education of children at certain private schools and homes.** (1) The State Board of Education shall be responsible for approving the educational program for children living in or under the care of:

- (a) The Children's Farm Home;
- (b) Albertina Kerr Center;
- (c) The Salvation Army White Shield Home;
- (d) Christie School;
- (e) Edgefield Lodge;
- (f) Parry Center;
- (g) St. Mary's School;
- (h) Villa Gerard;
- (i) Villa St. Rose;
- (j) Waverly Children's Home;

(k) The Boys and Girls Aid Society of Oregon;

(L) The Pacific Child Treatment Center;

(m) The JANIS Project;

(n) Poyama Land;

(o) The Child Center;

(p) Grande Ronde Child Center;

(q) Southern Oregon Child Study and Treatment Center;

(r) Mid-Columbia Children's Center;

(s) Cascade Child Study and Treatment Center;

(t) Lincoln County Child Day Treatment Center;

(u) Southern Oregon Adolescent Study and Treatment Center;

(v) Polk Adolescent Day Treatment Center;

(w) Klamath Child Treatment Center, Inc.;

(x) Clackamas Adolescent Day Treatment Center; and

(y) Plowshare, Inc.

(2) Subject to the availability of funds therefor and subject to the terms of the agreement between the Children's Services Division of the Department of Human Resources and the school district, the division shall be responsible for payment of the cost of such education. The payments may be made to the school district or, at the discretion of the local school district, to the district providing the education as set forth in subsection (3) of this section, from the funds appropriated for the purpose.

(3) Such education may be provided by the school district in which the agency is located or the school district must cause the education to be provided by an adjacent school district or by the education service district in which the program is located or one contiguous thereto. The instruction may be given in facilities of such districts or in facilities provided by such agency.

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

(5) The acceptable items for educational program costs shall be the same as those items approved for special educational reimbursement to school districts in this chapter.

(6) The school district may request the Children's Services Division to combine several private agency school programs into one con-

tract with a school district, adjacent school district, or an education service district. [Formerly 343.950 and then 326.510; 1975 c.620 §1; 1977 c.251 §1; 1977 c.586 §1; 1979 c.700 §1; 1981 c.916 §1]

**Note:** 343.960 and 343.965 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 343 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**343.965 Reimbursement to school districts for costs incurred under ORS 343.960.** Subject to the availability of funds therefor and subject to the terms of the agreement between the school district and the Children's Services Division:

(1) The district providing the education described in ORS 343.960 shall receive from the Children's Services Division as reimbursement from moneys appropriated therefor an amount equal to the agreed cost of such education.

(2) The Children's Services Division may make advances to such school district from funds appropriated therefor based on the estimated agreed cost of educating the pupils per school year. Advances equal to 25 percent of such estimated cost may be made on September 1, December 1 and March 1 of the current year. The balance may be paid whenever the full determination of cost is made.

(3) School districts which provide the education described in ORS 343.960 on a year-round plan may apply for 25 percent of the funds appropriated therefor on July 1, October 1, January 1, and 15 percent on April 1. The balance may be paid whenever the full determination of cost is made. [1973 c.708 §2; 1975 c.50 §1; 1981 c.916 §2]

**Note:** See note under 343.960.

**343.975 State board responsibility for education for children at state hospitals and training centers.** (1) The State Board of Education shall be responsible for approving the educational program meeting standards established by the board for children living in or under the care of the state hospitals and training centers for the mentally retarded.

(2) The Mental Health Division of the Department of Human Resources shall be responsible for payment of the cost of such education from the funds appropriated for the purpose. [1975 c.590 §2]

**343.980 State board responsibility for education for children under Children's Services Division.** (1) The State Board of Education shall be responsible for approving the educational programs meeting standards established by the board for children living in or

under the care of Children's Services Division juvenile training schools and camps as defined under ORS 420.005.

(2) The Children's Services Division of the Department of Human Resources shall be responsible for payment of the cost of such education from the funds appropriated for the pur-

pose. [1975 c.590 §3]

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