

# Chapter 343

1991 EDITION

## Special Education Services

### GENERAL

- 343.035 Definitions
- 343.037 Rule to distinguish related services
- 343.041 Special programs for children with disabilities to be supervised by Superintendent of Public Instruction; board rules
- 343.045 Establishing criteria for programs
- 343.055 Superintendent of Public Instruction to administer special programs
- 343.065 Superintendent of Public Instruction to employ personnel to supervise types of services for special programs
- 343.085 Tuition prohibited

### CHILD DEVELOPMENT

- 343.125 Child development specialist
- 343.135 State reimbursement for costs
- 343.145 State board guidelines; qualification for child development specialist

### DETERMINATION OF ELIGIBILITY FOR SPECIAL EDUCATION

- 343.153 Definitions for ORS 339.623 and 343.153 to 343.183
- 343.155 State rules relating to eligibility
- 343.157 Application for admission to special education program; duty of school district to identify eligible children
- 343.163 Preplacement evaluation; notice of eligibility
- 343.165 Procedure if parent does not consent or contests evaluation or placement; hearing
- 343.167 Result of hearing; cost of hearing
- 343.173 Parental rights; periodic evaluation by district; independent evaluation; costs
- 343.175 Civil action on decision
- 343.177 Effect of contest of placement; change of placement
- 343.183 Effect of school district failure to comply
- 343.193 Duty to report when child appears to have disability; effect of report
- 343.195 Individual education program to include needed transition services; alternative

### CHILDREN WITH DISABILITIES

- 343.221 Special education required
- 343.227 How eligibility determined; when medical or visual examination may be required
- 343.236 State reimbursed or operated local, county or regional programs
- 343.243 Annual billing for enrollment in certain programs
- 343.247 Special Education Account
- 343.261 Instruction of certain hospitalized children
- 343.271 Centers for teacher training and consultation
- 343.277 Payment of costs where district does not provide special education

- 343.285 Use of state funds to match federal funds
- 343.287 State Advisory Council for Special Education
- 343.293 Local advisory council on special education
- 343.295 Document of successful completion

### EARLY INTERVENTION SERVICES

- 343.363 Transportation costs
- 343.367 When district liable for costs

### TALENTED AND GIFTED CHILDREN

- 343.391 Purpose of ORS 343.391 to 343.413
- 343.395 Definitions for ORS 343.391 to 343.413
- 343.396 Nature of programs
- 343.397 Plan for improvement of instruction or curriculum for talented and gifted children
- 343.399 State aid to local districts
- 343.401 Use of funds appropriated for ORS 343.391 to 343.413
- 343.404 Funding for program development
- 343.407 Identification of talented and gifted students
- 343.409 Talented and gifted programs required; compliance
- 343.411 When identification and programs for certain children required or optional; state guidelines
- 343.413 Short title

### EARLY CHILDHOOD EDUCATION

- 343.415 Definitions for ORS 343.415 to 343.435
- 343.425 Operating guides; approval
- 343.435 How district may provide early childhood education
- 343.455 Responsibility of prekindergarten programs for early childhood special education services

### SERVICES FOR PRESCHOOL CHILDREN WITH DISABILITIES

- 343.465 Policy on services to preschool children with disabilities
- 343.475 Program of early childhood special education; service areas; primary contractor; residency; sanctions; fiscal impact statement
- 343.485 Rules relating to confidentiality
- 343.495 Procedure if no contractor designated for service area
- 343.498 State Early Intervention Coordinating Council; membership; duties; term; travel reimbursement; staff
- 343.503 Joint planning group; duties; agency disclosures
- 343.507 Local early intervention interagency advisory council; members; officers
- 343.511 Interagency agreements to provide services

## EDUCATION AND CULTURAL FACILITIES

- 343.513 Eligibility criteria
- 343.517 Parent-initiated referral to determine eligibility
- 343.521 Individual family service plan; meeting required; annual review of plan; plan content
- 343.527 Notice of proposed change; content
- 343.531 Rules governing disputes concerning eligibility or services; procedural safeguards
- 343.534 Grant funds to approved providers

### DISADVANTAGED CHILDREN

- 343.650 Definitions for ORS 343.650 to 343.680
- 343.660 Facilities and services for disadvantaged children
- 343.670 Advance payment
- 343.680 Advance payments and reimbursements to districts of 40,000 for operation and construction costs

### STUDENT DRIVER TRAINING

- 343.705 Definitions for ORS 343.705 to 343.750
- 343.710 Student driver training program
- 343.720 School course in automobile driver instruction
- 343.730 State reimbursement
- 343.740 Student Driver Training Fund
- 343.750 Contract with private driver training school

### MIGRANT CHILDREN

- 343.810 Definitions for ORS 343.810 to 343.835
- 343.830 Summer programs for migrant children
- 343.835 Reimbursement; not subject to Local Budget Law

### MISCELLANEOUS PROVISIONS

- 343.910 Homemaking and agricultural education in cities over 8,000 population
- 343.923 Department duties for programs for students with moderate to severe retardation

- Note Reimbursement for students with retardation--1991 c.795 §12
- 343.945 When blind students to be encouraged to learn braille
- 343.961 Responsibility for costs of education of children in long-term care or treatment
- 343.975 Responsibility for costs of education for children at state hospitals and training centers
- 343.980 Responsibility for education for children under Children's Services Division

### CROSS REFERENCES

- Administrative procedures and rules of state agencies, 183.310 to 183.550
  - Alcohol, narcotics, drugs; publicity, educational and other programs on effect of use and abuse, 430.270, 430.425
  - Allotment required before expenditure of state moneys in certain cases, 291.238
  - Community mental health and developmental disabilities programs, 430.610 to 430.700
  - Education Cash Account, 327.485
  - Personal tax credit for child with disability, 316.099
  - Preliminary evaluation of special education eligibility of child in wardship proceeding, 419.593
  - Public health programs, school districts may appropriate funds to be expended by local health boards, 431.480
  - Special education services to districts through education service district, 334.175
  - Teacher education and training, funds, 327.495
  - Transportation costs for children attending School for Blind or Deaf, resident district responsibility, 346.041
  - Tuition not charged for special instruction connected with regular program, 336.165
- 343.221
- Educational service for the visually handicapped, 346.250

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) "Case management" means the activities carried out by a case manager to assist and enable a child receiving early childhood special education and the child's family to receive the rights, procedural safeguards and services that are authorized in this chapter, and the coordination of other services which are intended to benefit the development of each child being served for the duration of the child's eligibility.

(2) "Children with disabilities" means those school age children who are entitled to an appropriate education as specified by ORS 339.115 and who require special education because they have been evaluated as having one of the following conditions as defined by rules established by the State Board of Education: Mental retardation, hard of hearing, deafness, speech impairment, visual handicap, seriously emotionally disturbed, orthopedic or other health impairment, autism, traumatic brain injury or specific learning disabilities.

(3) "Developmental delay" means:

(a) Delay, at a level of functioning and in accordance with criteria established by rules of the State Board of Education, in one or more of the following developmental areas: Cognitive development; physical development, including vision and hearing; language and speech development; psychosocial development or self-help skills; or

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

(4) "Early childhood special education" means free, specially designed instruction to meet the unique needs of a preschool child with a disability, three years of age until the age of eligibility for kindergarten, where instruction is provided in any of the following settings: Home, hospitals, institutions, special schools, classrooms, and community child care or preschool settings, or both.

(5) "Early intervention services" means programs of treatment and habilitation designed to address the needs of preschool children with disabilities from birth until three years of age in the areas of cognitive, physical, including vision and hearing, lan-

guage and speech development, self-help and psychosocial development. Such services may include classroom, parent training and consultation, 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.

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

(7) "Instruction in early childhood special education" means providing families with information and skills that support the achievement of the outcomes in the child's individual family service plan and working with preschool children with disabilities in one or more of the following developmental areas: Language and speech development, psychosocial development, physical development, including vision and hearing, self-help skills and cognitive development.

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

(9) "Parent" means the parent, person acting as a parent or a legal guardian, other than a state agency, of the child or the surrogate for the parent.

(10) "Preschool children with disabilities" means all children from:

(a) Birth until three years of age who are eligible for early intervention services because they are experiencing developmental delay; or

(b) Three years of age to eligibility for entry into kindergarten who need early childhood special education services because they are experiencing developmental delay or because they have been evaluated as having one of the conditions listed for school age children under subsection (2) of this section.

(11) "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, counseling services, rehabilitation counseling, social work services and medical services, except that such medical services shall be for diagnostic

and evaluation purposes only, as may be required to assist children with disabilities or preschool children with disabilities, three years of age until the age of eligibility for kindergarten, to benefit from special education or early childhood special education and includes early identification and assessment of disabling conditions.

(12) "Special education" means specially designed instruction to meet the unique needs of school age children with disabilities, including regular classroom instruction, instruction in physical education, home instruction, related services and instruction in hospitals, institutions, special schools and other settings. [Formerly 343.212; 1977 c.528 §1; 1983 c.731 §1; 1991 c.749 §§1, 1a; 1991 c.795 §1]

**Note:** The amendments to 343.035 by section 1a, chapter 749, Oregon Laws 1991, become operative July 1, 1992. See section 29, chapter 749, Oregon Laws 1991. The text that is operative until July 1, 1992, is set forth for the user's convenience.

**343.035.** (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.

**343.037 Rule to distinguish related services.** The State Board of Education by rule shall adopt interpretive guidelines to assist in distinguishing between related services, as defined in ORS 343.035, and treat-

ment for handicapping conditions. [1985 c.555 §14]

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

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

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

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

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

(5) The Governor shall direct that agencies affected by this section 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; 1989 c.491 §30; 1991 c.749 §2]

**Note:** The amendments to 343.041 by section 2, chapter 749, Oregon Laws 1991, become operative July 1, 1992. See section 29, chapter 749, Oregon Laws 1991. The text that is operative until July 1, 1992, is set forth for the user's convenience.

**343.041.** (1) Pursuant to rules of the State Board of Education, 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.

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

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

**343.055 Superintendent of Public Instruction to administer special programs.** (1) The Superintendent of Public Instruction shall administer all programs established under this chapter. The State Board of Education, consistent with the provisions of ORS 342.120 to 342.175 and 342.177 to 342.430, 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, eligibility of children, size of special facilities, rooms and equipment, supervision, territory to be served, and such other rules as the board considers necessary to administer this chapter.

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

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

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

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

**Note:** The amendments to 343.055 by section 3, chapter 749, Oregon Laws 1991, become operative July 1, 1992. See section 29, chapter 749, Oregon Laws 1991. The text that is operative until July 1, 1992, is set forth for the user's convenience.

**343.055.** (1) The Superintendent of Public Instruction shall administer all programs established under

this chapter. The State Board of Education, consistent with the provisions of ORS 342.120 to 342.175 and 342.177 to 342.430, 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 the board considers necessary to administer this chapter.

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

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

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

**343.065 Superintendent of Public Instruction to employ personnel to supervise types of services for 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, early childhood special education programs, early intervention services and hospitals in the organization and development of special programs authorized by this chapter, shall have general supervision of such programs, and shall assist school districts, early childhood special education and early intervention contractors in obtaining required services, equipment and materials, particularly where the number of children is too small to justify district or contractor purchase of equipment and materials. [Formerly 343.255; 1991 c.749 §4]

**Note:** The amendments to 343.065 by section 4, chapter 749, Oregon Laws 1991, become operative July 1, 1992. See section 29, chapter 749, Oregon Laws 1991. The text that is operative until July 1, 1992, is set forth for the user's convenience.

**343.065.** 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.

**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 and their families.

(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 developmentally appropriate 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 and their families to appropriate state or local agencies for additional assistance as needed.

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

(3) The district school board of every school district operating any elementary schools may make the services of a child development specialist, as described in subsection (2) of this section available to children four years of age or younger and their families residing in its district. If such children need assessment, the child development specialist shall assure that developmentally appropriate assessment and screening procedures are provided for early identification of barriers or needs that pre-

vent successful transition to early education programs.

(4) 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; 1991 c.346 §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 from funds available for the child development specialist program 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; 1991 c.346 §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 339.623 and 343.153 to 343.183.** As used in ORS 339.623 and 343.153 to 343.183:

(1) "Decision" means the decision of the hearings officer.

(2) "Determination" means the determination by the school district concerning the identification, preplacement or annual evaluation, individual education program or placement of a child with disabilities 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.

(5) "School district" means a common or union high school district or an education service district that is charged with the duty or contracted with by a public agency to educate children apparently eligible for special education and includes the Department of Education for the purpose of carrying out the procedures required by ORS 343.165 to 343.175 for education programs under ORS 343.975 and 343.980.

(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); 1985 c.555 §11; 1989 c.491 §33; 1991 c.795 §2]

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

(1) Rules governing the procedures for the appointment of a surrogate for the parent and other rules necessary to protect the special educational rights of the child, which shall include, but need not be limited to, rules applicable whenever no parent of the child can be identified or located after reasonable efforts or when there is reasonable cause to believe that the child has a disability and is a ward of the state.

(2) Rules prescribing hearings procedures if identification, evaluation, individual education program or placement is contested. [1979 c.423 §3 (enacted in lieu of 343.077); 1989 c.491 §34; 1991 c.795 §3]

**343.157 Application for admission to special education program; duty of school district to identify eligible children.** (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 employee thereof may also initiate the application if the district or employee has reasonable cause to believe that a child in the district is eli-

gible for special education. However, in common or union high school districts or education service districts, employees may initiate the application only pursuant to procedures prescribed by the district.

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

**Note:** The amendments to 343.157 by section 5, chapter 749, Oregon Laws 1991, become operative July 1, 1992. See section 29, chapter 749, Oregon Laws 1991. The text that is operative until July 1, 1992, is set forth for the user's convenience.

**343.157.** (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 employee thereof may also initiate the application if the district or employee 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, employees may initiate the application only pursuant to procedures prescribed by the district.

**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 communication 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 evaluation, individual education program 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); 1991 c.795 §4]

**343.165 Procedure if parent does not consent or contests evaluation or placement; hearing.** (1) If the parent withholds or refuses consent to preplacement evaluation or initial placement of a child with a disability, the school district shall follow procedures prescribed in rules of the State Board of Education to act when consent is not obtained.

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

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

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

(3) The board'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 board'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 evaluation, individual education program and placement are appropriate or whether the result of the determination of the district is to provide the child with free appropriate education.

(5) The hearing shall be conducted by an independent hearing officer appointed by the Superintendent of Public Instruction. The hearing officer shall not be:

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

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

(c) A person having any personal or professional interest which would conflict with the person's objectivity in the hearing. [1979 c.423 §6 (enacted in lieu of 343.077); 1989 c.252 §1; 1989 c.491 §35; 1991 c.795 §5]

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

(2) If the finding at the hearing is that the identification, preplacement evaluation, individual education program or placement is not appropriate or that the child is not being provided a free appropriate education, the hearing 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 hearing officer at the request of the parent or the school district. Copies of the decision shall be sent to the parent and to the school district accompanied by a statement describing the method of appealing the decision.

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

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

**343.173 Parental rights; periodic evaluation by district; independent evaluation; costs.** (1) Notwithstanding the limitation on access to records under ORS 192.410 to 192.505 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) Under rules adopted by the State Board of Education, each school district shall conduct an evaluation of a child with disabilities every three years or more frequently if conditions warrant or if the parent or teacher requests an evaluation.

(3) Any parent is entitled to obtain an independent evaluation at the expense of the

school district if the parent disagrees with an evaluation obtained by the district.

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

(5) Each school district shall provide, on request, information about where an independent educational evaluation may be obtained.

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

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

**343.175 Civil action on decision.** (1) A decision under ORS 343.165 is final unless the parent or the school district files a civil action under subsection (2) of this section.

(2) Either party aggrieved by the finding and decision of the reviewing officer may commence a nonjury civil action in any circuit court of competent jurisdiction without regard to the amount in controversy.

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

(4) Any civil action brought under this section shall be commenced within 120 days of the date of the hearing officer's final order. [1979 c.423 §9 (enacted in lieu of 343.077); 1983 c.731 §9; 1989 c.252 §4]

**343.177 Effect of contest of placement; change of placement.** (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)(a) A change in placement occurs if the child:

(A) Is suspended for a total of more than 10 cumulative school days during a school year;

(B) Is suspended for seven consecutive calendar days; or

(C) Is expelled.

(b) Due process procedures shall be followed for any change in placement. [1979 c.423 §10 (enacted in lieu of 343.077); 1991 c.795 §7]

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 Superintendent of Public Instruction may withhold all or any part of the funds otherwise due a district for special education until the district complies with the requirements of ORS 343.153 to 343.183.

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

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

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

343.190 [Repealed by 1965 c.100 §456]

**343.193 Duty to report when child appears to have disability; 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 disabled 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; 1989 c.224 §53]

**343.195 Individual education program to include needed transition services; alternative.** (1) Every individual education program for an eligible student must include a statement of the needed transition services for students beginning no later than 16 years of age and annually thereafter and a statement of the interagency responsibilities before the student leaves the school setting. When determined appropriate for the individual, this shall be started beginning at 14 years of age or younger.

(2) In the case where a participating agency, other than the educational agency, fails to provide agreed upon services, the educational agency shall reconvene the individual education program team to identify alternative strategies to meet the transition objectives.

(3) The State Board of Education shall establish by rule the definition of transition services and procedures for development of transition plans. [1991 c.795 §16]

**Note:** 343.195 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.

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

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

### CHILDREN WITH DISABILITIES

**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 children with disabilities, the district school board of any school district in which there

are school age children who require special education:

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

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

(3) May, when the board considers a contract to be economically feasible and in the interests of the learning opportunities of eligible children, contract for special education for such children with another school district 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 and developmental disabilities 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 child with disabilities 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 339.623 and 343.153 to 343.183. 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 State reimbursed or operated local, county or regional programs.** (1) The Superintendent of Public Instruction may provide special education on a local, county or regional basis without regard to county boundaries in all areas of the state for children who are:

- (a) Blind;
- (b) Deaf;
- (c) Blind and deaf;
- (d) Orthopedically impaired;
- (e) Autistic; or
- (f) Moderately to severely retarded.

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

(3) The State Board of Education by rule shall establish eligibility criteria and educational standards for the programs described

in subsection (1) of this section and those programs in facilities operated under ORS 346.010.

(4) A school district which contracts to provide a program under this section shall be paid for the state-approved program as determined and funded by the Legislative Assembly. Contracting school districts are authorized to negotiate supplemental programs with participating school districts. [1965 c.100 §401; 1975 c.621 §7; 1985 c.555 §2; 1991 c.167 §24; 1991 c.795 §14]

**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]

**343.243 Annual billing for enrollment in certain programs.** (1) The Department of Education shall bill annually an education service district for each child who is a resident of a school district in the education service district and is enrolled in a special education program under ORS 343.261, 343.961, 343.975 and 346.010. Where there is no education service district, the department shall bill the county school district or a common school district having county-wide jurisdiction.

(2) The billing shall be equal to (a) the average net operating expenditure per student of all school districts in the education service district during the preceding school year multiplied by (b) the resident average daily membership of students enrolled in the special education program one-half of the school day or more, exclusive of preschool children covered by ORS 343.363.

(3) 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.

(4) The department shall notify each executive officer of the administrative office for the county, as defined in ORS 328.001, of its estimated billing not later than March 1 of each year. Not later than August 15, the department shall submit the actual billing to the executive officer. The due date for payment of the billing to the department shall be not later than December 15 following that August 15.

(5) The education service district, county school district or common school district shall pay the amount of the billing from the county school fund. In cases where this bill-

ing exceeds the amount in the county school fund, the unpaid balance shall be recovered by a reduction by the department in the State School Fund grant to each district within the county based upon the ratio that total billings under subsection (1) of this section for children resident in the school district are to total billings under subsection (1) of this section to the education service district.

(6) The liability of a district shall not exceed the amount established under this section even if the child is otherwise subject to ORS 339.175 and 339.195.

(7) The amounts received by the department shall be credited 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]

Note: The amendments to 343.243 by section 37, chapter 780, Oregon Laws 1991, become operative June 30, 1992. See section 38, chapter 780, Oregon Laws 1991. The text of 343.243, as amended by section 25, chapter 167, Oregon Laws 1991, that is operative until June 30, 1992, is set forth for the user's convenience.

Sec. 25. (1) The Department of Education shall bill annually an education service district for each child who is a resident of a school district in the education service district and is enrolled in a special education program under ORS 343.261, 343.961, 343.975 and 346.010. Where there is no education service district, the department shall bill the county school district or a common school district having county-wide jurisdiction.

(2) The billing shall be equal to (a) the average net operating expenditure per student of all school districts in the education service district during the preceding school year multiplied by (b) the resident average daily membership of students enrolled in the special education program one-half of the school day or more, exclusive of preschool children covered by ORS 343.363.

(3) 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.

(4) The department shall notify each executive officer of the administrative office for the county, as defined in ORS 328.001, of its estimated billing not later than March 1 of each year. Not later than August 15, the department shall submit the actual billing to the executive officer. The due date for payment of the billing to the department shall be not later than December 15 following that August 15.

(5) The education service district, county school district or common school district shall pay the amount of the billing from the county school fund. In cases where this billing exceeds the amount in the county school fund, the unpaid balance shall be recovered by a reduction by the department in the reimbursement under ORS 343.281 to each district within the county based upon the ratio that claims under ORS 343.281 of the district bear to the total amount of claims of all districts in the county under ORS 343.281.

(6) The liability of a district shall not exceed the amount established under this section even if the child is otherwise subject to ORS 339.175 and 339.195.

(7) The amounts received by the department shall be credited to the appropriate subaccount in the Special Education Account.

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]

**343.247 Special Education Account.** (1) There is established in the General Fund a separate account to be known as the Special Education Account. All moneys received by the Department of Education under this section shall be deposited in the State Treasury to the credit of the account and appropriated continuously for purposes of ORS 343.236, 343.261, 343.961 and 346.010. The account shall be divided into two subaccounts:

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

(b) A subaccount for education under ORS 343.236 and 346.010.

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

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

343.250 [Repealed by 1953 c.710 §23]

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

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

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

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

343.260 [Repealed by 1953 c.710 §23]

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

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

(a) State-operated hospitals; and

(b) Private hospitals not including psychiatric facilities which:

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

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

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

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

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

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

**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 children with disabilities. Funds appropriated for education of children with disabilities 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 the child would be regularly enrolled in order to obtain special education, shall contribute to the district in which the child is enrolled a sum equal to the cost of educating the child in the district in which the child 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** [1959 c.510 §15 (343.211 to 343.291 and 343.990(2) enacted in lieu of 343.234 to 343.304 as compiled in 1957 Replacement Part); 1965 c.100 §406; 1969 c.519 §1; 1975 c.621 §10; 1977 c.714 §7; 1985 c.555 §16; 1987 c.158 §60; repealed by 1991 c.780 §30]

**Note:** The repeal of 343.281 by section 30, chapter 780, Oregon Laws 1991, becomes operative June 30, 1992. See section 38, chapter 780, Oregon Laws 1991. The temporary text is set forth for the user's convenience.

**343.281 State reimbursement of excess costs; limitations.** Reimbursement to all districts for operation and administration of district special education programs approved by the Superintendent of Public Instruction under ORS 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 excess cost 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 excess cost of operation and administration of special education.

(3) If the Superintendent of Public Instruction approves the claim of a district for reimbursement, the superintendent shall reimburse the district in addition to the Basic School Support Fund 30 percent of the approved excess 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 excess 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 excess 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 excess cost of special education.

(4) The Superintendent of Public Instruction may distribute the funds provided for the education of children with disabilities as provided in this chapter on an

advance payment system which would allow the superintendent 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 child with disabilities to a private school for children with disabilities approved by the State Board of Education may claim reimbursement for the excess cost of such special education tuition.

(6) Districts may not claim state reimbursement under ORS 339.623, 343.035 to 343.055, 343.153 to 343.183, 343.221 to 343.236, 343.261, 343.271 and 343.285 to 343.295 for the per capita cost assessments for the education of resident children with disabilities in a state operated or state supported school 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 excess cost for special education" means all expenditures approved by the Superintendent of Public Instruction in accordance with administrative rules established by the State Board of Education made by a school district or education service district for providing instructional services for children with disabilities in, or in addition to, regular classes less the average per pupil cost for school children in the district multiplied by the number of children with disabilities in special class placements one-half of the school day or more claimed by the district. The average per pupil amount shall be determined by the Superintendent of Public Instruction based upon the previous school year. Costs which are reimbursed by federal or other state agency funds shall not be claimed as approved excess cost under this section.

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

**Note:** The repeal of 343.283 by section 30, chapter 780, Oregon Laws 1991, becomes operative June 30, 1992. See section 38, chapter 780, Oregon Laws 1991. The text is set forth for the user's convenience.

**343.283 Residency determination.** (1) Notwithstanding ORS 332.595, for purposes of determining school districts subject to ORS 343.243 and 343.281, residency shall be determined as follows:

(a) A child who has attained the age of majority shall be considered a resident of that school district in which the child resides on the date the child enrolls in the educational program.

(b) A minor child shall be considered a resident of that school district in which the parent or person in parental relationship to the child resides on the date the child enrolls in the educational program.

(c) If the child is a ward of a court or an approved child-caring agency, the child shall be considered a resident of that school district in which the parent or person in parental relationship to the child resided on the date the child became a ward.

(d) If the child who is a ward of a court or an approved child-caring agency has no parents or person in parental relationship, or none can be located, the child shall be considered a resident of the school district in which the child resided when the child became a ward.

(2) 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. Such determination shall be final.

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

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

**343.287 State Advisory Council for Special Education.** (1) There is created a State Advisory Council for Special Education Children, consisting of not less than nine members appointed by the Superintendent of Public Instruction. Members must include handicapped individuals, parents or guardians of children with disabilities, educators of children with disabilities, state and local education officials, administrators of programs for children with disabilities and other persons associated with or interested in the education of children with disabilities. 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 Special Education Children shall review aspects of the statewide program of education of children with disabilities 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 children with disabilities, comment publicly on any rules proposed for adoption by the State Board of Education concerning special education and the distribution of funds for special education and 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; 1989 c.158 §2; 1989 c.491 §40]

**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 Special Education. [Formerly 343.525; 1989 c.158 §3]

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

**343.295 Document of successful completion.** The school district shall award to children with disabilities a document certifying successful completion of program requirements. No document issued to children with disabilities 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]

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

**Note:** The repeal of 343.303 by section 30, chapter 780, Oregon Laws 1991, becomes operative June 30, 1992. See section 38, chapter 780, Oregon Laws 1991. The temporary text is set forth for the user's convenience.

**343.303.** (1) In accordance with rules adopted by the State Board of Education, the Superintendent of Public Instruction shall establish procedures for reimbursing school districts for special education and related services for children with extraordinary handicapping conditions creating needs which are beyond the resources of the school district and the community.

(2) When a school district refers a child with extraordinary handicapping conditions to the Department of Education, the Superintendent of Public Instruction shall review the case and determine whether the school district should be reimbursed for the special education and related services for the child. In reaching this determination, the superintendent shall consider, among other factors, the following information:

(a) The child's educational, medical and psychological records and any prognosis concerning the child;

(b) The number of years that the child may need to receive special education and related services;

(c) The educational and other services available in the child's community or in close proximity to that community;

(d) The enrollment of, and resources available to, the school district of residence; and

(e) The proposed placement of the child.

(3) The decision of the Superintendent of Public Instruction concerning whether or not to reimburse the school district for special education and related services for a child under this section shall be final.

(4) A school district which obtains approval for reimbursement under this section shall file a claim with the Superintendent of Public Instruction on or before October 1 following the close of the school year for which reimbursement is sought.

(5) The Superintendent of Public Instruction may distribute funds under this section on an advance payment basis which allows distribution in the year in which the expenses occur.

(6) School districts may not make claim for state reimbursement under this section for any per pupil cost assessments for the education of resident children with disabilities in state-operated or state-supported schools.

(7) A school district receiving reimbursement for a child under this section shall not claim reimbursement for the same child in the same year under ORS 343.281.

(8) As used in this section, "extraordinary handicapping conditions" means:

(a) A multiplicity of handicaps which cannot be addressed in any program offered by local education agencies; or

(b) Extreme uncontrolled emotional or behavioral problems which make the child ineligible for any program which usually accepts seriously emotionally disturbed children.

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

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

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

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

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

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

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

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

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

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

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

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

## EARLY INTERVENTION SERVICES

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

**Note:** The repeal of 343.353 by section 6, chapter 749, Oregon Laws 1991, becomes operative July 1, 1992. See section 29, chapter 749, Oregon Laws 1991. The temporary text is set forth for the user's convenience.

**343.353.** (1) It is the policy of the State of Oregon to provide early intervention services to preschool children with disabilities 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 State Board of Education and the Mental Health and Developmental Disability Services Division shall establish by rule criteria by which to determine those preschool children with disabilities entitled to early intervention services under ORS 343.035, 343.175, 343.221, 343.363 and 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 and Developmental Disability Services Division shall provide early intervention services to preschool children with disabilities 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 and Developmental Disability Services Division shall provide early intervention for 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 and Developmental Disability Services Division and the State Board of Education shall establish by rule 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 343.035, 343.175, 343.221 and 343.353 to 343.367. Insofar as possible the procedures shall be uniform. The division and the state board, respectively, shall be the answering party in any proceedings under ORS 343.035, 343.175, 343.221 and 343.353 to 343.367.

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

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

**Note:** The repeal of 343.357 by section 6, chapter 749, Oregon Laws 1991, becomes operative July 1, 1992. See section 29, chapter 749, Oregon Laws 1991. The temporary text is set forth for the user's convenience.

**343.357.** (1) The Superintendent of Public Instruction and the Mental Health and Developmental Disability Services Division shall establish jointly a Coordinating Council for Early Intervention Services. The Superintendent of Public Instruction and the Assistant Director for the Mental Health and Developmental Disability Services Division, or their designees, shall serve on this council and each shall

appoint one recognized expert in early intervention services for preschool children with disabilities. Additionally, the superintendent and the assistant director shall appoint jointly one representative of a major consumer advocacy group that represents the interests of children with disabilities and one representative of a provider group serving preschool children with disabilities.

(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 statewide program evaluation systems, which measure individual child progress, program compliance with standards and overall program effectiveness.

(c) Implement and maintain a statewide 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.

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

**343.363 Transportation costs.** (1) School districts are not eligible to receive moneys from the State School Fund for children in the early intervention and early childhood special education programs.

(2) The Department of Education shall not bill a resident school district for a child receiving services under this section even if the child is served by a county or regional program otherwise subject to ORS 343.243.

(3) The resident school district shall provide transportation services to preschool children with disabilities, as defined in ORS 343.035, age three until the age of eligibility for kindergarten, as a related service and as required, to children from birth to three years of age, enrolled in programs under ORS 339.185, 343.035, 343.041, 343.055, 343.065, 343.157, 343.363 and 343.465 to 343.534 and may include those costs in their claims for transportation costs reimbursement by the state. No state agency is required to pay transportation other than the claims on the State School Fund. [1983 c.731 §6; 1987 c.238 §1; 1991 c.749 §22]

**Note:** The amendments to 343.363 by section 22, chapter 749, Oregon Laws 1991, become operative July 1, 1992. See section 29, chapter 749, Oregon Laws 1991. The text that is operative until July 1, 1992, is set forth for the user's convenience.

**343.363.** (1) Money for the early intervention programs shall be credited annually from the Basic School Support Fund and shall be placed in the fund described in ORS 343.247 (1)(b). The amount to be credited annually shall be one-half the statewide average net operating expenditures per child in resident average daily membership, as defined in ORS 327.006, times the number of children enrolled in early intervention programs during March immediately prior to the beginning of the fiscal year. The average expenditures per child shall be

determined annually by the Superintendent of Public Instruction based upon the previous school year.

(2) The Department of Education shall transfer the amount due based on the number of children being served in Mental Health and Developmental Disability Services Division early intervention programs to the Mental Health and Developmental Disability Services Division on July 1. The department shall retain the remainder of the funds to pay for those early intervention programs for which the department contracts. School districts are not eligible to receive moneys from the Basic School Support Fund for children in the early intervention programs.

(3) The Department of Education shall not bill a resident school district for a child receiving services under this section even if the child is served by a county or regional program otherwise subject to ORS 343.243.

(4) School districts shall provide transportation services to preschool children with disabilities attending programs under ORS 343.353 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**343.397 Plan 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 343.413 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 343.413.** (1) The funds specifically appropriated for the program under ORS 343.391 to 343.413 shall be distributed to districts that have approved, written plans and have submitted an application to the superintendent 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 support for the development of talented and gifted education statewide.

(2) These services may include:

(a) Teacher training programs and workshops;

(b) Consultant and technical assistance to districts;

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

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

(3) The amount of funds that may be expended for purposes described in this section shall not exceed 10 percent of the amount appropriated in a biennium for purposes of ORS 343.391 to 343.413. [1971 c.613 §6; 1979 c.385 §6; 1981 c.833 §1; 1987 c.335 §2]

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

**343.407 Identification of talented and gifted students.** School districts shall identify talented and gifted students enrolled in public schools beginning with the 1990-1991 school year under rules adopted by the State Board of Education. [1987 c.337 §3]

**343.409 Talented and gifted programs required; compliance.** School districts shall provide educational programs or services to talented and gifted students enrolled in public schools beginning with the 1991-1992 school year under rules adopted by the State Board of Education. Pursuant to criteria specified in rules of the state board, the state board may authorize extensions beyond July 1, 1992, for complying with the requirement of this section in cases of financial hardship. [1987 c.337 §4]

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

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

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

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

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

## 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) "At-risk children" means children who may have difficulty achieving in school and who meet criteria established by the State Board of Education.

(3) "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.

(4) "Early Childhood Improvement Program" means those programs meeting the criteria included in ORS 336.435 and complying with rules adopted by the State Board of Education.

(5) "Extended day services" means programs that serve young children and operate during hours beyond regular school time. [1975 c.455 §2; 1991 c.693 §19]

**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 childhood 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]

**343.455 Responsibility of prekindergarten programs for early childhood special education services.** (1) Prekindergarten programs shall be responsible for providing early childhood special education services pursuant to ORS 339.185, 343.035, 343.041, 343.055, 343.065, 343.157, 343.363 and 343.465 to 343.534.

(2) Not less than 10 percent of the population of children served in prekindergarten programs shall be children who are eligible to receive early childhood special education services. [1991 c.785 §4]

**Note:** 343.455 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.

**343.460** [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]

### SERVICES FOR PRESCHOOL CHILDREN WITH DISABILITIES

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

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

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

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

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

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

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

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

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

(i) Evaluates the system's impact on the child and family, including child progress,

service quality, family satisfaction, transition into public schooling, longitudinal and cumulative reporting over several biennia and interagency coordination at both the state and local level.

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

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

**Note:** 343.465 to 343.534 take effect July 1, 1992.

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

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

(a) Establish and designate service areas throughout the state for the delivery of early childhood special education and early intervention services.

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

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

(3) In addition to any other remedy or sanction that may be available, the Superintendent of Public Instruction may withhold funds and terminate the contract of any con-

tractor that fails to comply with any provisions of the contract.

(4) In proposing rules under this section, the board shall cause a fiscal impact statement to be prepared. [1991 c.749 §8]

Note: See note under 343.465.

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

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

Note: See note under 343.465.

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

**343.495 Procedure if no contractor designated for service area.** (1) If no contractor is designated for a service area, and no qualified county agency is available to manage the necessary services or to subcontract the services, the Superintendent of Public Instruction may provide early childhood special education and early intervention services in a local, county or service area.

(2) Programs operated by the Department of Education must comply with rules adopted by the State Board of Education for early childhood special education and early intervention contractors. [1991 c.749 §10]

Note: See note under 343.465.

**343.498 State Early Intervention Coordinating Council; membership; duties; term; travel reimbursement; staff.** (1) There is created a State Early Intervention Coordinating Council, consisting of 15 members, appointed by the Governor from a list of eligible appointees provided by the Department of Education, developed in consultation with the Department of Human Resources. Members must include at least three parents of preschool children with disabilities and whose children are of preschool age at the time of appointment, at least three contractors of early childhood special education services, a representative of an agency or organization that trains personnel for employment in early childhood special education programs, a member of the State Advisory Council for Special Education, a representative of the joint planning group established under ORS 343.503, and at least one member of the Legislative Assembly and shall include other community representatives, including parents of older children

with disabilities as recommended by the Department of Education.

(2) The State Early Intervention Coordinating Council shall:

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

(b) Advise and assist the joint planning group established under ORS 343.503 and the represented public agencies regarding the services and programs they provide to preschool children with disabilities or who are at risk of developing disabling conditions, and their families, including public comments on any proposed rules affecting the target population and the distribution of funds for such services, and assist each agency in developing services that reflect the overall goals for the target population as adopted by the council.

(3) Terms of office for council members shall be three years, except for the representative from the Legislative Assembly, the representative from the State Advisory Council for Special Education and the representative from the joint planning group, who shall serve one-year terms.

(4) The Department of Education shall reimburse members of the council for necessary travel and other expenses under ORS 292.495 (2), out of funds appropriated to the department for this purpose.

(5) The department shall provide clerical and administrative support to the council. [1991 c.749 §11]

Note: See note under 343.465.

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

**343.503 Joint planning group; duties; agency disclosures.** (1) The Superintendent of Public Instruction and the Director of the Department of Human Resources shall convene a joint planning group representative of the agencies that provide or pay for services to preschool children with disabilities or at risk of developing disabling conditions and their families.

(2) These representatives shall insure that:

(a) The services provided by the represented agencies for preschool children with disabilities or who are at risk of developing disabling conditions, and their families are in

conformity with the policy established in ORS 343.465;

(b) The provisions of interagency agreements under ORS 343.511 are carried out; and

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

(3) Each agency shall disclose the following information:

(a) The number of preschool children with disabilities, or who are at risk of developing disabling conditions, and their families that the agencies serve, including numbers of children served by more than one agency;

(b) The amount of state-administered funds expended on behalf of the population identified in paragraph (a) of this subsection; and

(c) Examples of the interagency agreements developed as a result of ORS 343.511, including evaluative information regarding the effect of these agreements on services and expenditures of state-administered funds. [1991 c.749 §12]

Note: See note under 343.465.

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

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

(2) Each local early intervention interagency advisory council shall include as members at least 20 percent parents of preschool children with disabilities, 20 percent providers of early childhood special education and early intervention services or other services to preschool children with disabilities, a representative of the Oregon Community Children and Youth Services Commission and representatives from public and private agencies that serve young children and their families, including but not limited to Head Start and Oregon prekindergarten programs, community day care, local school districts, educational service districts, Department of Education regional special education programs, the Health Division, community Mental Health and Developmental Disability Services Division programs, the Children's Services Division, the Adult and Family Services Division, Indian education agencies, migrant programs

servicing young children and community colleges.

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

(4) The department shall establish procedures pursuant to rules of the State Board of Education for seeking and considering local council advice regarding the selection of contractors, coordination of services and procedures for local resolution of disputes. [1991 c.749 §13]

Note: See note under 343.465.

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

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

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

(2) Each interagency agreement shall include:

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

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

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

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

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

Note: See note under 343.465.

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

Note: See note under 343.465.

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

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

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

(3) Nothing in this section shall relieve school districts of the duty to identify, locate and evaluate preschool children with disabilities under ORS 343.157 (3). [1991 c.749 §16]

Note: See note under 343.465.

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

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

**343.521 Individual family service plan; meeting required; annual review of plan; plan content.** (1) In accordance with rules of the State Board of Education, the agencies under contract with the Department of Education to provide early childhood special education or early intervention services must assure that an individual family service plan is developed for each preschool child with a disability who is determined eligible for early childhood special education or early intervention services and for the child's family. The Department of Education or its contractors shall not be responsible for the cost of other services of the individual family service plan that are not early childhood special education or early intervention services. The individual family service plan must be developed in a meeting conducted within 30 working days from the time the child is determined to be eligible for the services.

(2) The meeting arrangements must be made with, and written notice provided to, the parents and other participants at least seven days prior to the meeting date. Meetings must be conducted:

(a) In settings and at times that are convenient to the parent; and

(b) In the native language of the parent or other mode of communication used by the family.

(3) A review of the individual family service plan must be conducted annually, or more frequently if needed. The family or any other member of the team can initiate a meeting. The review may be carried out by a meeting or by another means that is ac-

ceptable to the parent and other participants. The purpose of the annual review is to determine:

(a) The degree of progress toward achieving the goals and objectives; and

(b) Whether modifications or revisions of the goals, objectives or services are necessary.

(4) A representative of the resident school district of the child shall participate in the annual meeting the year before the child enters school.

(5) Each individual family service plan shall contain:

(a) A statement of the child's present level of development;

(b) A statement of the specific early childhood special education or early intervention services necessary to meet the unique needs of the child;

(c) With concurrence of the family, a statement of the family's strengths, needs and major outcomes expected to be achieved as they relate to enhance the development of the child;

(d) A statement of the annual goals and short-term objectives expected to be achieved for the child, and the criteria, evaluation procedures, evaluation schedules and time lines for each short-term objective;

(e) Projected dates of initiation of services and the anticipated duration of those services;

(f) The name of the person or persons responsible for implementation of the plan and coordination with other agencies and persons;

(g) Steps to be taken to support transition of the child to public schooling; and

(h) Other services, such as medical services, that the child may need but that are not early childhood special education or early intervention services. [1991 c.749 §17]

Note: See note under 343.465.

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

**343.527 Notice of proposed change; content.** (1) Written notice that meets the requirements of subsections (2) and (3) of this section must be given to the parent of a preschool child with a disability or the parent of a preschool child suspected of having a disability within seven days before the contractor or the contractor's designee:

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

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

(2) The notice in subsection (1) of this section must include:

(a) A full explanation of all procedural safeguards available to the parent under this section;

(b) A description of the action proposed or refused by the contractor or designee, an explanation of why the contractor or designee proposes or refuses to take the action and a description of any options considered and the reasons why those options were rejected;

(c) A description of each evaluation procedure, test, record or report the contractor or designee used as a basis for the proposal or refusal; and

(d) A description of any other factors that are relevant to the proposal or refusal.

(3) The notice must be:

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

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

(4) If the native language or other mode of communication of the parent is not a written language, the contractor or designee shall take steps to 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 the parent understands the content of the notice; and

(c) That there is written evidence that the requirements in paragraphs (a) and (b) of this subsection have been met. [1991 c.749 §18]

Note: See note under 343.465.

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

**343.531 Rules governing disputes concerning eligibility or services; procedural safeguards.** (1) The State Board of Education shall establish by rule procedures for the conduct of mediation or hearings to settle disputes concerning eligibility for or appropriateness of services in individual cases and procedures for any other due process or procedural requirements that may result from the implementation of early intervention services.

(2) The State Board of Education shall assure by rule that all preschool children

who are three years of age to eligibility for entry into kindergarten are provided by the Department of Education the same procedural safeguards and rights as those provided to school age children with disabilities under this chapter. [1991 c.749 §§19, 20]

Note: See note under 343.465.

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

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

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

Note: See note under 343.465.

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

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 license 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 Department of Education, pursuant to rules of the State Board of Education. 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) \$150 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; 1989 c.491 §44; 1991 c.709 §8]

#### **343.740 Student Driver Training Fund.**

(1) There is created the Student Driver Training Fund, separate and distinct from the General Fund. All payments required under ORS 343.710 to 343.750 and moneys paid into the fund under ORS 802.110 and all expenses incurred in the administration of those sections shall be made to and borne by the fund. Interest earned by the fund shall be credited to 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.338 §915; 1983 c.585 §4; 1989 c.966 §27]

**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; 1983 c.338 §916; repealed by 1983 c.583 §8]

### **MIGRANT CHILDREN**

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

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

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

the individual is performing the agricultural labor.

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

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

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

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

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

**343.835 Reimbursement; not subject to Local Budget Law.** Pursuant to rules of the State Board of Education, school districts shall submit a proposed budget for summer programs to the Superintendent of Public Instruction for approval. Upon completion of the summer program the claim shall be presented to the Superintendent of Public Instruction for reimbursement which shall be made only for the actual and approved expenses incurred in the program. Expenditures made by a school district in carrying out a summer program shall not be subject to the Local Budget Law (ORS 294.305 to 294.520, 294.555 and 294.565). [1961 c.502 §9; 1963 c.570 §31a; 1965 c.100 §432; 1989 c.491 §45]

### **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]

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

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

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

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

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

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

**Note:** The repeal of 343.926 by section 30, chapter 780, Oregon Laws 1991, becomes operative June 30, 1992. See section 38, chapter 780, Oregon Laws 1991. The text, as amended by section 12, chapter 795, Oregon Laws 1991, is set forth for the user's convenience.

**Sec. 12. Reimbursement for students with retardation.** (1) Reimbursement to districts for operation and administration of education programs for students with moderate to severe retardation, when such programs are approved by the Superintendent of Public Instruction under ORS 343.221, shall be made subject to the following provisions:

(a) The district shall submit by June 30 to the Superintendent of Public Instruction an estimate of the excess cost of providing education for students with moderate to severe retardation for the following school year.

(b) The district 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 excess cost of operation and administration of the education programs for students with moderate to severe retardation.

(c) If the Superintendent of Public Instruction approves the claim of a district for reimbursement, the superintendent shall reimburse the district, in addition to the Basic School Support Fund, 50 percent of the approved excess cost of providing education for students with moderate to severe retardation for the school year for which reimbursement is claimed, or its equal prorated share of funds available, but not to exceed 50 percent of the district's approved excess costs. If an education service district provides the program, the superintendent shall reimburse the education service district 50 percent of the approved excess cost of providing education for students with moderate to severe retardation for the school year for which reimbursement is claimed, or its equal prorated share of funds available, but not to exceed 50 percent of the education service district's approved excess costs.

(d) The Superintendent of Public Instruction may distribute the funds provided for the education of students with moderate to severe retardation as provided in this section on an advance payment system which allows the superintendent to distribute the funds in the year in which the expenses occurred. Computation of the amounts due each district operating a program for students with moderate to severe retardation shall be made by the superintendent pursuant to rules of the State Board of Education. The rules shall establish a method of computation and payment.

(e) A school district that provides education for students with moderate to severe retardation by paying tuition for an eligible, resident student to a private school approved by the state board may claim reimbursement for the excess cost of such special education tuition.

(f) Districts shall not claim state reimbursement for the per capita cost assessments for the education of resident students with moderate to severe retardation in a state-operated or state-supported school in cases where a per capita cost assessment is billed directly to the district.

(g) Where determination of the eligibility of a child for education described in this section 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.

(2) As used in this section, "approved excess cost for special education" means (a) all expenditures approved by the Superintendent of Public Instruction in accordance with rules adopted by the state board that are made by a school district or education service district for providing instructional services for students with moderate to severe retardation in, or in addition to, regular classes, (b) less the average per pupil current operating cost for school children in the district, (c) multiplied by the number of students with moderate to severe retardation claimed by the district. The average per pupil amount shall be determined by the superintendent based upon the previous school year. Costs which are reimbursed by federal or other state agency funds shall not be claimed as approved excess cost under this section. [1991 c.795 §12]

**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]

**343.945 When blind students to be encouraged to learn braille.** It shall be the policy of this state that blind students who, due to lack of visual acuity or perception, cannot read printed material at a competitive rate of speed and with facility, or who have a reasonable expectation of visual deteri-

oration, shall be encouraged to learn to read and write braille. [1989 c.265 §2]

Note: 343.945 was added to and made a part of ORS chapter 343 by legislative action but was not added to any series therein. See Preface to Oregon Revised Statutes for further explanation.

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

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

**343.961 Responsibility for costs of education of children in long-term care or treatment.** (1) The Department of Education shall be responsible for payment of the cost of the education in programs with which the Department of Human Resources contracts for long-term care or treatment. Programs eligible for such education shall be in accordance with criteria adopted by rule by the department.

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

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

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

(5) The department 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.

(6) School districts which provide the education described in ORS 343.961 on a year-round plan may apply for 25 percent of the funds appropriated therefor on July 1, Octo-

ber 1, January 1, and 15 percent on April 1. The balance may be paid whenever the full determination of cost is made.

(7) In addition to the payment methods described in this section, the department may negotiate interagency agreements to pay for the cost of education in treatment programs operated under the auspices of the State Board of Higher Education. [1985 c.555 §19a; enacted in lieu of 343.960 and 343.965; 1987 c.223 §1; 1989 c.1011 §1; 1991 c.780 §26; 1991 c.795 §13]

Note: The amendments to 343.961 by section 26, chapter 780, Oregon Laws 1991, become operative June 30, 1992. See section 38, chapter 780, Oregon Laws 1991.

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

**343.975 Responsibility for costs of education for children at state hospitals and training centers.** (1) Pursuant to rules of the State Board of Education, the Superintendent of Public Instruction shall be responsible for payment of the cost and oversight of the educational programs for children living in the Fairview Training Center and the Eastern Oregon Training Center for the mentally retarded.

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

(3) The school district in which the state training center is located shall be responsible for providing the education directly or through an adjacent school district or through the education service district in which the state training center is located or one contiguous thereto. The instruction may be given in the facilities of the school district or in other appropriate facilities which constitute the least restrictive environment. [1975 c.590 §2; 1989 c.491 §46; 1989 c.875 §3]

**343.980 Responsibility for education for children under Children's Services Division.** (1) Pursuant to rules of the State Board of Education, the Superintendent of Public Instruction 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 purpose. [1975 c.590 §3; 1989 c.491 §47]

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

## **EDUCATION AND CULTURAL FACILITIES**

---