

TITLE 34

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Chapter 409

1991 EDITION

Department of Human Resources

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**DEPARTMENT OF HUMAN
RESOURCES**

(Generally)

409.010 Department of Human Resources; duties; division. (1) The Department of Human Resources is created.

(2) The Department of Human Resources shall provide programs for the delivery to the public of services relating to public assistance, children and families, health and health-related affairs, mental health and developmental disabilities, employment, vocational rehabilitation, elderly persons, disabled persons, including persons with traumatic brain injuries, alcohol and drug abuse and such other services as may be assigned to the Department of Human Resources. Family support services provided by the Department of Human Resources shall be delivered in accordance with the principles described in ORS 417.342 and 417.344.

(3) The Department of Human Resources shall provide the programs and services enumerated in subsection (2) of this section through the divisions and other organizational units, including but not limited to the following:

- (a) The Adult and Family Services Division;
- (b) The Children's Services Division;
- (c) The Mental Health and Developmental Disability Services Division;
- (d) The Employment Division;
- (e) The Vocational Rehabilitation Division;
- (f) The Health Division;
- (g) The Senior and Disabled Services Division; and
- (h) Alcohol and Drug Abuse Programs.

(4) The Department of Human Resources shall be the recipient of all federal funds paid or to be paid to the state to enable the state to provide the programs and services assigned to the Department of Human Resources. [Formerly 184.750]

409.020 Authority to perform support enforcement services. (1) The Department of Human Resources may enter into agreements with district attorneys or the Support Enforcement Division for performance of support enforcement services pursuant to federal laws or regulations.

(2) The Department of Human Resources may, if required by federal law or regulation relating to child support programs:

- (a) Enter into agreements with the Support Enforcement Division or a district attorney for providing child support services;

(b) Promulgate rules for operation of child support programs under ORS 25.080; or

(c) Provide other services not specified by ORS 23.185, 25.010 to 25.030, 25.050, 25.070, 25.080, 25.350, 108.110, 109.100, 109.125, 418.042 and this section. [Formerly 184.785]

409.030 Administration of Child Care and Development Block Grants. The office of the Director of the Department of Human Resources, as designated by the Governor, shall be responsible for administering funds received by the State of Oregon pursuant to the federal Child Care and Development Block Grant Act of 1990. [1991 c.697 §2]

409.040 Federal law supersedes state law. (1) To the extent that there is any conflict between chapter 319, Oregon Laws 1971, and any federal law referred to or to be administered under chapter 319, Oregon Laws 1971, the federal law in effect on June 8, 1971, is controlling.

(2) In all cases where federally granted funds are involved, the federal laws, rules and regulations applicable thereto shall govern notwithstanding any provision to the contrary in ORS 409.010, 409.060, 409.070, 409.100 to 409.160, 411.060 and this subsection. [Formerly 184.780]

Note The Legislative Counsel has not, pursuant to 173.160, undertaken to substitute specific ORS references for the words "chapter 319, Oregon Laws 1971" in 184.780 (renumbered 409.040). Chapter 319, Oregon Laws 1971, enacted into law and amended ORS sections which may be found by referring to the 1971 Comparative Section Table located in volume 15 of Oregon Revised Statutes.

409.050 Rulemaking. (1) Pursuant to ORS 183.310 to 183.550, the director may adopt such administrative rules as the director considers necessary to carry out the functions of the department.

(2) Notwithstanding any other provision of law, the director by order may delegate authority under subsection (1) of this section to such extent as the director considers proper to assistant directors of the department. [(Formerly 184.787)]

409.060 Department of Human Resources Account. (1) There is established in the General Fund of the State Treasury an account to be known as the Department of Human Resources Account. All moneys in this account are appropriated for and shall be used by the department for the respective purposes authorized by law. The moneys in the account and all appropriations for the account are subject to allotment control by the Executive Department.

(2) The Department of Human Resources shall keep a record of all moneys credited to and deposited in the account. The records shall indicate by separate cumulative ac-

counts the source from which the moneys were derived and the individual activity or program against which each withdrawal is charged.

(3) The unobligated balance in the account on June 30 of each odd-numbered year shall be determined by the department as of September 30 next following, and certified to the Executive Department. Unless otherwise provided by law or action of the Emergency Board, the amount certified pursuant to this subsection shall revert to the General Fund and become available for general governmental purposes. [Formerly 184.795]

409.070 Department of Human Resources Special Checking Account. (1) There is established a Department of Human Resources Special Checking Account in the State Treasury. Upon the written request of the Director of Human Resources, the Executive Department shall draw warrants in favor of the Department of Human Resources to be charged against appropriations and other moneys available to the Department of Human Resources in the same manner as other claims against the state, as provided in ORS chapter 293. All such warrants shall be deposited in the special checking account and may be disbursed by check.

(2) The special checking account may be used for the purpose of paying the administrative expenses of programs and services as assigned to the Department of Human Resources by law, including the payment of expenses to be reimbursed by the Federal Government. [Formerly 184.800]

(Director, Deputy, Assistant Directors)

409.100 Director; appointment; term; confirmation; salary and expenses. (1) The Department of Human Resources shall be under the supervision and control of a director who is responsible for providing for programs for the delivery to the public of the services assigned to the department by ORS 409.010 or otherwise, and for undertaking long-range planning necessary for the effective and efficient delivery of these services.

(2) The Governor shall appoint the director for a term of four years, but the director may be removed at any time during such term at the pleasure of the Governor. The appointment of the director is subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.

(3) The director shall receive such salary as may be provided by law or, if not so provided, as may be fixed by the Governor, and shall be reimbursed for all expenses actually and necessarily incurred by the director in the performance of official duties. [Formerly 184.755]

409.110 Authority of director; legislative approval required for certain actions by director. (1) The Director of Human Resources, consistent with any federal requirements and with the prior consent of the Governor:

(a) May cause the programs, divisions, other organizational units and offices within the department to make joint use of the personnel, resources, information and facilities available within the department.

(b) May combine or transfer components of existing programs, divisions, other organizational units and offices within the department.

(2) Where the action taken under subsection (1) of this section requires any transfer between appropriations or expenditure limitations or between the budgets of programs, divisions, other organizational units and offices within the department, established by legislative action, the transfer first must be approved by the Legislative Assembly or, if it is not in session, the Emergency Board.

(3) Any organizational changes within the department that are not described in subsection (1) of this section shall be made only after approval thereof by joint resolution of the Legislative Assembly. [Formerly 184.770]

409.120 Delegation of authority of director. (1) The Director of Human Resources may delegate to any of the officers and employees of the department the exercise or discharge in the director's name of any power, duty or function of whatever character vested in or imposed upon the director by law. However, all such delegations of a continuing nature involving provision for services performed by the department may be exercised by an officer or employee of the department only when specifically designated in writing by the director to do so.

(2) The official act of any person acting in the director's name and by the director's authority pursuant to subsection (1) of this section shall be considered an official act of the director. [Formerly 184.773]

409.130 Deputy director; assistant directors; other employees. (1) The director may appoint a deputy director, whose appointment is subject to approval by the Governor and who shall serve at the pleasure of the director. The deputy director shall have full authority to act for the director, subject to directions of the director. The appointment of the deputy director shall be by written order, filed with the Secretary of State.

(2) Each division within the Department of Human Resources shall be under the supervision of an assistant director appointed

by the director, whose appointment is subject to approval by the Governor and who shall serve at the pleasure of the director.

(3) Except as provided in subsection (1) of this section and subject to any applicable provisions of the State Personnel Relations Law, the director may appoint employees within the office of the director of the department, prescribe their functions and fix their compensation.

(4) In addition to the assistant directors specified in subsection (2) of this section, the director may appoint one assistant director to carry out such other responsibilities as the director may assign. [Formerly 184.760]

409.140 Assistant director as appointing authority; assignment of employees by director. (1) For purposes of the State Personnel Relations Law, each assistant director appointed under ORS 409.130, and any other officer specifically designated by law, is considered to be the appointing authority with respect to officers and employees under the supervision of the assistant director or other officer, and ORS 240.400 applies to each such appointing authority.

(2) Notwithstanding subsection (1) of this section, the director at any time may assign an employee from one position to another position in the same class or rank within the department or between its divisions. Upon making such an assignment or transfer, the director forthwith shall give written notice of the action to the Administrator of the Personnel Division. ORS 240.400 applies to the power vested in the director under this subsection. [Formerly 184.767]

409.150 Assistant directors in unclassified service; other employees; salary; expenses. Assistant directors appointed under ORS 409.130 shall be in the unclassified service of the state and shall receive such salaries as may be provided by law. With the approval of the director, each assistant director supervising a division may appoint one deputy and one secretary who shall be in the unclassified service and receive such salaries as may be provided by law. In addition to their salaries, they shall, subject to the limitations otherwise provided by law, be reimbursed for all expenses actually and necessarily incurred in the performance of official duties. [Formerly 184.765]

409.160 Information from personnel within department. (1) The Director of Human Resources shall require from the personnel within the department such information, reports and documentation, as the director, in the discretion of the director, determines will be necessary to enable the director to:

(a) Execute responsibilities pursuant to law.

(b) Develop and report to the Governor from time to time on legislative, budgetary and administrative programs to accomplish comprehensive, long-range, coordinated planning and policy formulation in the matters of public interest related to the department.

(c) File with the Executive Department, for purposes of ORS 291.208, a budget report for each program, division, other organizational unit or office within the department.

(2) Where such information, reports or documentation is confidential in the hands of departmental personnel, it shall be confidential in the hands of the director. [Formerly 184.775]

(Office of Audits)

409.180 Office of audits. The Director of the Department of Human Resources may consolidate the internal audits units within the Department of Human Resources into an office of audits within the director's office, in order to achieve a higher level of independence and economy of management. [1991 c.321 §1]

CHILDREN'S SERVICES DIVISION

409.210 Children's Services Division; functions. The Children's Services Division is created in the Department of Human Resources. Subject to ORS 417.300 and 417.305, the division shall administer laws and programs relating to protective services to children, foster care, adoptions, Interstate Compact on Juveniles, restorative services to families with children, licensing of child care facilities and day care centers, the mental health program for children, youth employment programs and services to families and children in compliance with the federal social security laws. Family support services provided by the Children's Services Division shall be delivered in accordance with the principles described in ORS 417.342 and 417.344. [Formerly 184.805]

409.220 Services relating to prevention, control and treatment of incest and sexual abuse; fees. (1) The Children's Services Division may provide services related to the prevention, control and treatment of incest and sexual abuse. Those services include, but are not limited to, consultation, counseling, therapy and treatment programs for children who are the victims of incest and sex offenses, their families and the perpetrators of the incest or sex offense.

(2) When the services described in subsection (1) of this section are provided, the Children's Services Division may charge the perpetrator a fee not to exceed the cost of

the services. The fee shall vary according to the service provided, and shall be determined and applied through rules adopted by the division.

(3) The amount of fees collected under subsection (2) of this section are continuously appropriated to the division and shall be used to provide the services described in subsection (1) of this section. [Formerly 184.807]

409.230 Disclosure of information contained in division reports and other division materials required; immunities. (1) Information contained in Children's Services Division reports and other division materials relating to a child's history and prognosis that, in the professional judgment of the person providing the information for the reports or other materials, indicates a clear and immediate danger to another person or to society shall be disclosed to the appropriate authority and the person or entity who is in danger from the child.

(2) An agency or a person who discloses information under subsection (1) of this section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed for making the disclosure. The disclosure of information under this section does not make the information admissible in any court or administrative proceeding if it is not otherwise admissible. [1991 c.666 §2]

409.240 Payment of division expenses. Warrants shall be drawn by the Executive Department in favor of the Children's Services Division for the aggregate amounts of the division's expenses. The division shall deposit all such warrants in the State Treasury in a checking account in reimbursement of those expenses. The division may draw its checks on the State Treasury in favor of the persons, firms, corporations, associations or counties entitled thereto under such rules as it shall adopt so as to include in single combined payments for specified periods all moneys allotted to particular payees from various sources for the period. [Formerly 184.820]

409.250 Revolving fund. (1) On written request of the Children's Services Division, the Executive Department shall draw warrants on amounts appropriated to the Children's Services Division for operating expenses for use by the division as a revolving fund. The revolving fund shall not exceed the aggregate sum of \$100,000 including unreimbursed advances. The revolving fund shall be deposited with the State Treasurer to be held in a special account against which the division may draw checks.

(2) The revolving fund may be used by the division to pay for travel expenses for employees of the division and for any con-

sultants or advisers for whom payment of travel expenses is authorized by law, or advances therefor, or for purchases required from time to time or for receipt or disbursement of federal funds available under federal law.

(3) All claims for reimbursement of amounts paid from the revolving fund shall be approved by the division and by the Executive Department. When such claims have been approved, a warrant covering them shall be drawn in favor of the division and charged against the appropriate fund or account, and shall be used to reimburse the revolving fund. [Formerly 184.810]

409.260 Children's Services Account. (1) There hereby is established in the General Fund of the State Treasury an account to be known as the Children's Services Account. All moneys in the Children's Services Account are appropriated for and shall be used by the Children's Services Division for the respective purposes authorized by law. The moneys in the Children's Services Account shall be subject to allotment made under ORS 291.232 to 291.260 by the Executive Department.

(2) The Children's Services Division shall keep a record of all moneys credited to and deposited in the Children's Services Account. The record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity or program against which each withdrawal is charged.

(3) In addition to sources provided under other laws, the sources of revenues in the Children's Services Account may include recoveries of the cost of care provided to clients, amounts paid to the Children's Services Division by other organizations and state agencies in support of the division's programs and activities and other moneys received by the division which are incidental to its operations. [Formerly 184.815]

HEALTH DIVISION

409.310 Health Division; functions. (1) The Health Division is created in the Department of Human Resources. The Health Division shall be responsible for the administration of health and health-related affairs in this state as provided by law, including but not limited to public health services, migrant health services, licensing of health facilities, and coordinating the activities of professional and occupational licensing boards.

(2) The Health Division shall provide necessary staff assistance and services to, and shall have full authority and responsi-

bility for, all administrative matters in connection with the functioning of the division.

(3) It is the intention of the Legislative Assembly to provide for the more effective coordination of the administrative functions of boards charged with responsibility for protecting the public through the licensing and regulating of health-related professions practiced in this state. Further, it is the intention of the Legislative Assembly to retain responsibility and authority in the professional licensing boards, members of which are qualified by education, training and experience to make the necessary judgments, for decisions on qualifications, standards of practice, licensing, enforcement, discipline and other discretionary functions relating to professional activities. The professional licensing boards shall have authority to employ such personnel as they consider necessary to carry out their respective functions and shall maintain full budgetary control over the boards' expenditures and their recommendations for legislation including but not limited to appropriations. Expenditures are subject to the allotment system under ORS 291.232 to 291.260 and rules adopted thereunder. Budgets shall be prepared pursuant to ORS 291.202 to 291.226 and rules adopted thereunder. [Formerly 184.830]

409.320 Functions of assistant director. The Assistant Director for Health shall:

(1) Require each licensing board in the Health Division to maintain a register of the names and current addresses of all persons holding valid licenses, certificates of registration or other evidence of authority required to practice the occupation or profession, or operate the facility within the jurisdiction of such board and periodically, as the assistant director may require, to file a copy of the register at the office of the division. Any board that is authorized or required to distribute a register described in this section may collect a fee to cover the costs of publication, such fee to be handled as other receipts of the board are handled.

(2) In consultation with the licensing boards, designate a qualified person in the Health Division as coordinator for the accounting and other processes of the licensing boards who shall be responsible for providing such services as the licensing boards may request. [Formerly 184.840]

409.330 Assistant director as ex officio member of certain boards. The Assistant Director for Health, or the designee of the assistant director, shall serve as an ex officio member of all health-related licensing boards in the division, but without the right to vote. However, nothing in this section is intended to authorize the assistant director to inter-

vene in the internal functions and administration of the boards. [Formerly 184.835]

ALCOHOL AND DRUG PROGRAMS

409.410 Assistant Director for Alcohol and Drug Abuse; duties. (1) The Director of Human Resources shall appoint an Assistant Director for Alcohol and Drug Abuse Programs. The Assistant Director for Alcohol and Drug Abuse Programs shall have full responsibility to administer all alcohol and drug abuse programs, including the funds appropriated therefor, that would otherwise be the responsibility of the Mental Health and Developmental Disability Services Division, including but not limited to programs or components of programs described in ORS 426.450 to 426.470, ORS chapter 430, 475.225, 743.557, 743.558 and ORS chapters 801 to 822.

(2) Subject to ORS 417.300 and 417.305, the Assistant Director for Alcohol and Drug Abuse Programs shall:

(a) Report to the Legislative Assembly on accomplishments and issues occurring during each biennium, and report on a new biennial plan describing resources, needs and priorities for all alcohol and drug abuse programs.

(b) Develop within the Department of Human Resources priorities for alcohol and drug abuse programs and activities.

(c) Monitor the priorities of approved alcohol and drug abuse related programs in all other state agencies.

(d) Conduct statewide and special planning processes which provide for participation from state and local agencies, groups and individuals.

(e) Identify the needs of special populations including minorities, elderly, youth, women and individuals with disabilities.

(f) As appropriate, apply for, receive and administer funds for study or prevention and treatment of alcohol and drug abuse and dependence.

(g) Subject to ORS 183.310 to 183.550, adopt such rules as are necessary for the performance of the duties and functions specified by this section, ORS 409.010 and 430.255 to 430.630, or otherwise lawfully delegated. [Formerly 184.757]

409.420 Other duties of assistant director. In addition to the responsibilities in ORS 409.410, the Assistant Director for Alcohol and Drug Abuse Programs shall place special emphasis on all of the following:

(1) Establishing standards for both public and private alcohol and drug abuse prevention, intervention and treatment programs. It is the policy of the Legislative Assembly that all programs providing alcohol

and drug abuse related prevention, intervention and treatment services in this state, with public funds, meet the standards established under this subsection.

(2) Providing training for state employees dealing directly with appropriate client groups to insure better recognition and understanding of alcohol and drug abuse problems. Training is also to be directed at increasing knowledge of appropriate and available resources for assisting clients with alcohol and drug abuse problems.

(3) Conducting continuing long-term evaluation of clients and other recipients of services from all Department of Human Resources funded programs, for periods of up to 24 months following completion of service, to assess service effectiveness and enable appropriate corrective actions.

(4) Assuring financial audits and program reviews of alcohol and drug abuse related programs and services which receive funds, including beer and wine tax revenues distributed under ORS 430.380 and 471.810, from any state agency. [Formerly 184.759]

CHILD CARE SERVICES

409.610 Goal of Legislative Assembly.

It is the goal of the Legislative Assembly to provide programs to make child care services more affordable, to improve the quality of services offered and to increase the number of child care providers. Programs should be tailored to the needs of local communities and should include a combination of actions that will address both targeted populations, such as teen parents or disabled children, and low-income working or student parents. [1991 c.697 §1]

409.620 Service delivery plan; contents; review by interim committee; approval by Emergency Board. (1) The office of the Director of the Department of Human Resources shall prepare a service delivery plan that, to the extent practicable, allows for variations to reflect local priorities, as developed by local organizations, such as the Oregon Community Children and Youth Services Commission. The plan shall include details on proposed administration, including who is to administer each of the programs, grant distribution and state guidelines for local grants. The plan also shall include proposed expenditures for provider training.

(2) If an interim committee on children's issues has been appointed, the office of the Director of the Department of Human Resources shall present the service delivery plan to that committee prior to the September 1991 meeting of the Emergency Board.

The interim committee should review the implementation plan, take public testimony and make its budget recommendations to the Emergency Board at least one week prior to the Emergency Board's meeting on this issue.

(3) The office of the Director of the Department of Human Resources shall present the service delivery plan to the September 1991 meeting of the Emergency Board for approval of any required adjustment in the department's budget. [1991 c.697 §4]

409.630 Duties of director; local grants. The office of the Director of the Department of Human Resources shall insure the development of early childhood programs and before- and after-school day care through a grants program to local communities. Programs offered shall be determined by local communities and carried out by grants through the Oregon Community Children and Youth Services Commission or by a similar approach. [1991 c.697 §6]

JOB REFERRALS

409.710 Certain job referrals prohibited; eligibility not conditioned on employment at workplace involved in labor dispute. (1) The Department of Human Resources or any division or office in the department shall not refer any individual on a job referral that would aid in the filling of a job opening that exists because of a labor dispute, as defined in ORS 662.010.

(2)(a) Notwithstanding any other provision of law, no division of the Department of Human Resources, or any other state agency shall require as a condition of eligibility to receive benefits or services provided by that division or agency that an individual apply for or accept employment at any workplace where there is a labor dispute in progress.

(b) As used in this subsection, "labor dispute" has the meaning for that term provided in ORS 662.010. [Formerly 184.883]

MISCELLANEOUS

409.750 State goal to eliminate or alleviate poverty. The State of Oregon desires to assist and enable the poor to achieve maximum feasible economic self-sufficiency. It shall be a state goal to eliminate or alleviate the causes and conditions of poverty in Oregon. The state shall assist community action agencies to stimulate a better focusing of all available local, state, federal and private resources upon the goal. [Formerly 184.801]