

Enrolled House Bill 3254

Sponsored by Representative MCLAIN; Representatives NOBLE, RESCHKE (at the request of Coalition of Oregon School Administrators)

CHAPTER

AN ACT

Relating to the education of students in treatment programs; amending ORS 327.023 and 343.961; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 343.961 is amended to read:

343.961. (1) As used in this section:

(a) “Day treatment program” means a public or private program that provides treatment of children with a mental illness, an emotional disturbance or another mental health issue.

(b) “Eligible day treatment program” means a day treatment program with which the Oregon Health Authority contracts for long term care or treatment. “Eligible day treatment program” does not include residential treatment programs or programs that provide care or treatment to juveniles who are in detention facilities.

(c)(A) “Eligible residential treatment program” means:

(i) A residential treatment program with which the Oregon Health Authority, the Department of Human Services or the Oregon Youth Authority contracts for long term care or treatment.

(ii) **A residential program that provides disability-related supports under a license issued by the Department of Human Services under ORS 443.410 and that:**

(I) Was licensed by the Department of Human Services on the effective date of this 2021 Act and maintains that license as a valid license; and

(II) Has students being provided education by a school district that received moneys under this section for the 2020-2021 school year and that has an average daily membership, as defined in ORS 327.006, of 15,000 or less.

(B) “Eligible residential treatment program” does not include psychiatric day treatment programs or programs that provide care or treatment to juveniles who are in detention facilities.

(d) “Residential treatment program” means a public or private residential program that provides treatment of children with a mental illness, an emotional disturbance or another mental health issue.

(e) “Student” means a child who is placed in an eligible day treatment program or eligible residential treatment program by a public or private entity or by the child’s parent.

(2) The Department of Education shall provide moneys for payment of the costs of education of students in eligible day treatment programs and eligible residential treatment programs as provided by ORS 327.023. Payment shall be made to the school district in which the eligible day treatment program or eligible residential treatment program is located. The costs of education do not include transportation, care, treatment or medical expenses.

(3)(a) The school district in which an eligible day treatment program or eligible residential treatment program is located is responsible for providing the education of a student, including the identification, location and evaluation of the student for the purpose of determining the student's eligibility to receive special education and related services.

(b) A school district that is responsible for providing an education under this subsection may provide the education:

(A) Directly or through another school district or an education service district; and

(B) In the facilities of an eligible day treatment program, [or] **an** eligible residential treatment program, [*the facilities of*] a school district or [*the facilities of*] an education service district, **except that an eligible residential treatment program described in subsection (1)(c)(A)(ii) of this section may not provide education in the facilities of the program.**

(c) When a student is no longer in an eligible day treatment program or eligible residential treatment program, the responsibilities imposed by this subsection terminate and become the responsibilities of the school district where the student is a resident, as determined under ORS 339.133 and 339.134.

(4) The school district where the student is a resident is responsible for providing transportation to a student enrolled in an eligible day treatment program. Transportation must be provided by the school district where the student is a resident each day the student is scheduled to receive services from the eligible day treatment program.

(5) A school district may request the Department of Education to directly make payments to another school district or an education service district for eligible day treatment programs or eligible residential treatment programs when education is provided by the other school district or the education service district. Payments made under this subsection do not affect any responsibilities described in subsection (3) of this section for the school district that made the request.

(6) The Oregon Health Authority, the Department of Human Services or the Oregon Youth Authority shall give the school district providing the education at an eligible day treatment program or an eligible residential treatment program 14 days' notice, to the extent practicable, before a student is dismissed from the program.

(7) The Department of Education may make advances to school districts responsible for providing an education to students under this section from funds appropriated for that purpose based on the estimated agreed cost of educating the students per school year. Advances equal to 25 percent of the 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.

(8) School districts that provide the education described in this section on a year-round plan may apply for 25 percent of the funds appropriated for that purpose on July 1, October 1, January 1, and 15 percent on April 1. The balance may be paid whenever the full determination of cost is made.

(9) In addition to the payment methods described in this section, the Department of Education may negotiate intergovernmental agreements to pay for the cost of education in day treatment programs and residential treatment programs operated under the auspices of the governing board of a public university listed in ORS 352.002 or the Oregon Health and Science University Board of Directors.

SECTION 2. ORS 327.023 is amended to read:

327.023. In addition to those moneys distributed through the State School Fund, the Department of Education shall provide from state funds appropriated therefor, grants in aid or support for special and compensatory education programs including:

(1) The Oregon School for the Deaf.

(2) Medicaid match for administration efforts to secure Medicaid funds for services provided to children with disabilities.

(3) Hospital programs for education services to children who are hospitalized for extended periods of time or who require hospitalization due to severe disabilities as described in ORS 343.261.

(4) **Eligible** day treatment programs and **eligible** residential treatment programs for education services to children who are in the treatment programs as described in ORS 343.961.

(5) Regional services provided to children with low-incidence disabling conditions as described in ORS 343.236.

(6) Early childhood special education provided to preschool children with disabilities from age three until age of eligibility for kindergarten as described in ORS 339.185, 343.035, 343.041, 343.055, 343.065, 343.157 and 343.455 to 343.534.

(7) Early intervention services for preschool children from birth until age three as described in ORS 339.185, 343.035, 343.041, 343.055, 343.065, 343.157 and 343.455 to 343.534.

(8) Evaluation services for children with disabilities to determine program eligibility and needs as described in ORS 343.146.

(9) Education services to children residing at state hospitals.

(10) Disadvantaged children program under ORS 343.680.

(11) Early childhood education under ORS 329.235.

(12) Child development specialist program under ORS 329.255.

(13) Youth care centers under ORS 420.885 that are not within a detention facility, as defined in ORS 419A.004.

(14) Staff development and mentoring.

(15) Career and technical education grants.

(16) Special science education programs.

(17) Talented and Gifted children program under ORS 343.391 to 343.413.

(18) Pediatric nursing facility programs for educational services provided to students who are admitted to pediatric nursing facilities as provided in ORS 343.941.

SECTION 3. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect July 1, 2021.

Passed by House April 15, 2021

Received by Governor:

Repassed by House June 3, 2021

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Approved:

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Timothy G. Sekerak, Chief Clerk of House

.....M.,....., 2021

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Tina Kotek, Speaker of House

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Kate Brown, Governor

Passed by Senate June 2, 2021

Filed in Office of Secretary of State:

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Peter Courtney, President of Senate

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Shemia Fagan, Secretary of State