



Oregon

Kate Brown, Governor



OREGON
DEPARTMENT OF
EDUCATION

Oregon achieves . . . together!

Colt Gill

Deputy Superintendent of Public Instruction

B 3254 - Long Term Care and Treatment Programs

House Education Committee

March 24, 2021

Chair Alonso Leon, Vice-Chair Weber, Vice-Chair Neron and members of the House Education Committee, I am Jessica Ventura, Government Relations Director for the Oregon Department of Education (ODE). I am submitting the following information on behalf of ODE to provide background for your consideration of HB 3254. We have no position on the bill.

Existing Laws

Law	Definition
<p><u>Federal Title 1 N & D - SEC. 1432. DEFINITIONS.</u></p>	<p>(1) ADULT CORRECTIONAL INSTITUTION- The term adult correctional institution' means a facility in which persons (including persons under 21 years of age) are confined as a result of a conviction for a criminal offense.</p> <p>(2) AT-RISK- The term at-risk', when used with respect to a child, youth, or student, means a school aged individual who is at-risk of academic failure, has a drug or alcohol problem, is pregnant or is a parent, has come into contact with the juvenile justice system in the past, is at least 1 year behind the expected grade level for the age of the individual, has limited English proficiency, is a gang member, has dropped out of school in the past, or has a high absenteeism rate at school.</p> <p>(3) COMMUNITY DAY PROGRAM- The term community day program' means a regular program of instruction provided by a State agency at a community day school operated specifically for neglected or delinquent children and youth.</p> <p>(4) INSTITUTION FOR NEGLECTED OR DELINQUENT CHILDREN AND YOUTH- The term institution for neglected or delinquent children and youth' means —</p> <p>(A) a public or private residential facility, other than a foster home, that is operated for the care of children who have been committed to the institution or voluntarily placed in the institution under applicable State law, due to abandonment, neglect, or death of their parents or guardians; or</p> <p>(B) a public or private residential facility for the care of children who have been adjudicated to be delinquent or in need of supervision.</p>

<p><u>327.023 Grants for special and compensatory education programs.</u></p>	<p>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:</p> <ul style="list-style-type: none"> (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) Day treatment programs and residential treatment programs for education services to children who are in the treatment programs as described in ORS 343.961.
<p><u>343.243 Receipt of amount from State School Fund for children enrolled in certain programs; calculation of amount received; disposition of amount received.</u></p>	<ul style="list-style-type: none"> (1) Each school year, the Department of Education shall receive an amount, as calculated under this section, from the State School Fund to pay the costs of educating children in programs under ORS 343.261, 343.961 and 346.010. (2) To meet the requirements of ORS 343.261, the department shall receive from the State School Fund an amount that is equal to the product of the following: <ul style="list-style-type: none"> (a) The average net operating expenditure per student of all school districts during the preceding school year; and (b) The number of slots available for students in the hospital programs under ORS 343.261, as determined by the department for the school year. (3) To meet the requirements of ORS 343.961, the department shall receive from the State School Fund an amount that is equal to the product of the following: <ul style="list-style-type: none"> (a) The average net operating expenditure per student of all school districts during the preceding school year; and (b) The number of slots available for all students in eligible day treatment programs and eligible residential treatment programs under ORS 343.961 for the school year, as determined by the Department of Education based on information received from the Department of Human Services, the Oregon Health Authority, the Oregon Youth Authority and eligible day treatment programs and eligible residential treatment programs.

<p><u>343.961</u> <u>Responsibility for costs of education of children in day and residential treatment programs; responsibilities of district providing education; notice required before student dismissed from program.</u></p>	<p>(1) As used in this section:</p> <p>(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.</p> <p>(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.</p> <p>(c) “Eligible residential treatment program” means 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. “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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p>
<p><u>327.022 Pediatric Nursing Facility Account.</u></p>	<p>(1) The Pediatric Nursing Facility Account is established within the State School Fund.</p> <p>(2) The account shall consist of any moneys transferred as provided by ORS 327.008 and any other state or federal moneys available for the payments of the costs of educational services provided to students admitted to pediatric nursing facilities, as defined in ORS 442.015.</p> <p>(3) Moneys in the account are continuously appropriated to the Department of Education for the purpose of making payments pursuant to</p>

	<p>ORS 343.941 for the costs of educational services provided to students admitted to pediatric nursing facilities.</p> <p>(4) If the amount available in the account is 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, to the Emergency Board. [2014 c.81 §5]</p>
--	--

Background

During the 2017-2019 biennium, ODE realized that two entities on the LTCT program roster were primarily serving students from “Foster Group Homes” instead of “Eligible Day/Residential Treatment” programs as required by ORS 327.023, 343.243, and 343.961. In addition, the “foster group homes” are explicitly excluded from the Federal Title 1D program definitions for Neglected and Delinquent facilities, which LTCT sites receive federal funding. In the 2019-2020 school year, ODE had various meetings with Forest Grove and PPS and their mental health providers to identify the issue and problem solve. The SDs and mental health providers were notified that for the upcoming 21-23 biennium, unless their sites were licensed as day/residential treatment programs, they would no longer be funded from the LTCT Program in the 21-23 biennium, due to the definitions in both Federal and Oregon statutes. Both Forest Grove and PPS continued to be funded in the 20-21 school year as a stop-gap year or planning year for the 21-23 biennium. The program in Forest Grove is included in the 21-23 Governor’s Recommended Budget. PPS and Boys and Girls Aid have provided documentation and a contract from DHS that their Seneca program is indeed a “residential treatment program”, while the Annex program remains classified as a “group home”.

Issue

The currently funded Long Term Care and Treatment (LTCT) “group homes” in Forest Grove for Albertina Kerr and Portland Public Schools for Boys and Girls Aid, do not meet the Federal and Oregon statutory definitions to qualify for full ODE LTCT funding. Both Federal and Oregon statutes state “day treatment” or “residential treatment”. ODE could not justify continued funding of ineligible sites from the LTCT funding source when other eligible day/residential treatments sites from around the state are unfunded. Without an infusion of tremendous funds, ODE could not set precedent to continually fund the educational expenses for students from “foster group homes” because of the tremendous number of students from foster group homes

around the state that ODE does not currently fund. Besides Forest Grove and PPS, there are other SDs that incur high costs associated with students from foster group homes that ODE does not fund directly.

HB 3254

HB 3254 creates a new program called “qualified treatment program” so that the group homes in Forest Grove will continue to receive ODE LTCT funding. The definition has criteria to limit the definition to only the program in Forest Grove

The bill has no fiscal impact on ODE.

Respectfully submitted,

Jessica Ventura
Government Relations Director