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**TEMPORARY ADMINISTRATIVE ORDER**  
INCLUDING STATEMENT OF NEED & JUSTIFICATION  
**ODE 12-2022**  
CHAPTER 581  
OREGON DEPARTMENT OF EDUCATION

**FILED**  
01/28/2022 8:50 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE  
& LEGISLATIVE COUNSEL

FILING CAPTION: School Programs in Private Hospitals and State Operated-Hospitals

EFFECTIVE DATE: 01/28/2022 THROUGH 07/26/2022

AGENCY APPROVED DATE: 01/20/2022

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Filed By:  
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NEED FOR THE RULE(S):

ORS 343.261 allows the State Board of Education to adopt rules for payment of the cost and oversight of the educational programs for children in State-operated hospitals, the Oregon Health and Science University hospitals and clinics, and private hospitals. This proposed rule amendment updates the definition of school district in both private and state-operated hospitals.

JUSTIFICATION OF TEMPORARY FILING:

Failure to immediately amend the rules will result in the Department of Justice not giving legal sufficiency to the agreements between the Department and an Education Service District to provide the education program at a school program in hospitals. School age students would suffer from this consequence by being unable to access and continue their education while being treated in the hospital setting. By not amending the rules to update the definitions to better align with the state statute, the Department of Justice will not give legal sufficiency to the agreements between the Department and an Education Service District. The temporary rule amendment will allow legal sufficiency and school age students will continue their education.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

All relevant documents are readily available on the State Board of Education's website, BoardBook, under the January 2022 meeting. Draft rules will be available on the ODE website, State Board Proposed OARs.

RULES:

581-015-2575, 581-015-2580

AMEND: 581-015-2575

RULE TITLE: School Programs in Private Hospitals

RULE SUMMARY: ORS 343.261 allows the State Board of Education to adopt rules for payment of the cost and oversight of the educational programs for children in State-operated hospitals, the Oregon Health and Science University hospitals and clinics, and private hospitals. This proposed rule amendment updates the definition of school

district.

RULE TEXT:

(1) For purposes of this rule:

- (a) "Patient" means a school age child;
- (b) "Specialized intensive treatment" means that the hospital maintains special facilities, equipment, and staff;
- (c) "School district" the school district in which the state-operated hospital or training centers is located, or through an adjacent school district or through the education service district in which the program is located or one contiguous thereto.

(2) Private hospitals not including psychiatric facilities may submit an application for approval of a school program to the State Superintendent of Public Instruction. The application submitted must include verification that:

- (a) The hospital admits patients from throughout the state;
- (b) The hospital provides specialized intensive treatment that is unique and generally not available in local community hospitals;
- (c) The hospital provides services to patients who have severe, low incidence types of disabling conditions including but not limited to burns, orthopedic impairments, and head injuries, but not including drug and alcohol problems;
- (d) The hospital admits patients who can be expected to be hospitalized for five days or more or readmitted frequently; and
- (e) The facility is licensed as a hospital under OAR 333-500-0010(1)(a).

(3) Approval of the application by the State Superintendent of Public Instruction establishes the school district's eligibility to receive state funds to operate the hospital education program.

(4) All patients are eligible to receive educational services. Educational services must begin if a patient's hospital stay is expected to last five school days or longer and the hospital staff has determined the patient is medically able to receive educational services.

(5) The school district contracting to provide the education program must develop or implement an existing individualized education program that meets all applicable state and federal requirements for patients who meet eligibility criteria for a disability under OAR 581-015-2130 through 581-015-2180:

(6) The primary purpose of the school program for hospitalized patients is to maintain the patient's educational programs.

(7) The hospital must:

- (a) Provide classroom space and facilities necessary to carry out the educational program for each patient;
- (b) Coordinate with the school program in developing each patient's educational and medical treatment needs; and
- (c) Assume responsibility for the transportation, care, treatment, and medical costs of each patient.

(8) All teachers in the hospital school program must have appropriate teacher licensure under rules of the Teacher Standards and Practices Commission.

(9) Upon initial application or approval of a school program in a private hospital, the Oregon Department of Education will review the application, inspect the school program facility and confer with hospital authorities as necessary. The Department will then notify the school district whether the school program is approved or disapproved and under what conditions; if approved, the date upon which funds will be available for operation of the school program, and the effective date and length of the approval. The school district may reapply for approval at the expiration of each approval period.

(10) The Department will monitor each program for compliance with applicable state and federal requirements.

(11) The State Superintendent of Public Instruction will ensure that the school district contracting to provide the educational program meets the following requirements:

- (a) The program is operated under a written agreement with the Department of Education;
- (b) Each child without a disability has a personalized educational plan that; includes goals, services, timelines, and assessment of progress.
- (c) Information pertaining to the educational programs is provided to the Department in an accurate and timely manner;

and

(d) The educational program is developed and implemented in conjunction with the medical treatment program.

STATUTORY/OTHER AUTHORITY: ORS 343.261

STATUTES/OTHER IMPLEMENTED: ORS 343.261

AMEND: 581-015-2580

RULE TITLE: School Programs in State-Operated Hospitals

RULE SUMMARY: ORS 343.261 allows the State Board of Education to adopt rules for payment of the cost and oversight of the educational programs for children in State-operated hospitals, the Oregon Health and Science University hospitals and clinics, and private hospitals. The proposed rule amendment updates the definition of school district.

RULE TEXT:

(1) For purposes of this rule:

(a) "Patient" means a school age child who is admitted to a state-operated hospital;  
(b) "School district" the school district in which the state-operated hospital or training centers is located, or through an adjacent school district or through the education service district in which the program is located or one contiguous thereto.

(2) All patients admitted to state operated hospitals are eligible to receive educational services.

(3) Educational services in state operated hospitals must commence if a patient's hospital stay is expected to last five schools days or longer and the hospital staff has determined the patient is medically able to receive educational services.

(4) The school district contracting to provide the education program shall develop or implement an existing individualized education program that meets all applicable state and federal requirements for patients who meet eligibility criteria under OAR 581-015-2130 through 581-015-2180:.

(5) The primary purpose of the school program for patients in state-operated hospitals is to maintain the patients' educational programs.

(6) The hospital must:

(a) Provide classroom space and facilities necessary to carry out the educational program for each patient;  
(b) Coordinate with the school program in developing each patient's educational and medical treatment needs; and  
(c) Assume responsibility for the transportation, care, treatment, and medical costs of each patient.

(7) All teachers in hospital programs must have appropriate teacher licensure under rules of the Teacher Standards and Practices Commission.

(8) The Department will monitor each program for compliance with applicable state and federal requirements.

(9) The State Superintendent of Public Instruction will ensure that the school district contracting to provide the educational program meets the following requirements:

(a) The program is operated under a written agreement with the Department of Education;  
(b) Each child without a disability has a personalized educational plan that includes goals, services, timelines, and assessment of progress.  
(c) Information pertaining to the educational programs is provided to the Department in an accurate and timely manner;  
(d) The educational program is developed and implemented in conjunction with the medical treatment program.

STATUTORY/OTHER AUTHORITY: ORS 343.261

STATUTES/OTHER IMPLEMENTED: ORS 343.261