

## **Oregon Administrative Rules Talented and Gifted Programs**

### **581-022-1310**

#### **Identification of Academically Talented and Intellectually Gifted Students**

Each school district shall have local district policies and procedures for the identification of talented and gifted students as defined in ORS 343.395(7)(a) and (b):

- (1) Districts shall make efforts to identify students from ethnic minorities, students with disabilities, and students who are culturally different or economically disadvantaged.
  - (2) A team shall make the final decisions on the identification of students using the information collected under sections (3) and (4) of this rule. No single test, measure or score shall be the sole criteria. A record of the team's decision, and the data used by the team to make the decision, shall become part of the education record for each student considered.
  - (3) Districts shall collect behavioral, learning and/or performance information and include the information in all procedures for the identification of students.
  - (4) The following measures and criteria for identifying the intellectually gifted and the academically talented shall be used by the team:
    - (a) Intellectually gifted students shall score at or above the 97th percentile on a nationally standardized test of mental ability; and
    - (b) Academically talented students shall score at or above the 97th percentile on a test of total reading or a test of total mathematics from a nationally standardized test battery or a nationally standardized test of reading or mathematics.
  - (5) Despite a student's failure to qualify under subsections (4)(a) and (b) of this rule, districts, by local policies and procedures, shall identify students who demonstrate the potential to perform at the 97th percentile.
  - (6) School districts may identify additional students who are talented and gifted as defined in ORS 343.395(7)(c), (d), and (e) as determined by local district policies and procedures.
- Stat. Auth.: ORS 343.391 - ORS 343.413 Stats. Implemented: ORS 326.051 Hist.: EB 18-1996, f. & cert. ef. 11-1-96

### **581-022-1320**

#### **Rights of Parents of Talented and Gifted Students**

In carrying out the requirements of OAR 581-022-1310 and OAR 581-022-1330, the school district shall:

- (1) Inform parents at the time of the identification of the child and the programs and services available.
  - (2) Provide an opportunity for the parents to provide input to and discuss with the district the programs and services to be received by their child.
  - (3) The parents may, at any time, request the withdrawal of their child from programs and services provided under OAR 581-022-1320. The school district shall notify parents of identified students of this right.
  - (4) Parents shall be informed of their right to file a complaint under OAR 581-022-1940.
- Stat. Auth.: ORS 326.051 Stats. Implemented: ORS 343.391 - ORS 343.413 Hist.: EB 18-1996, f. & cert. ef. 11-1-96

### **581-022-1330**

#### **Programs and Services for Talented and Gifted Students**

- (1) Each school district shall have a written plan for programs and services.
- (2) The instruction provided to identified students shall address their assessed levels of learning and accelerated rates of learning.
- (3) Assessments for the development of an appropriate academic instructional program shall include the information used by the team for identification purposes and also may include one or more of the following:
  - (a) An academic history which may include grades, portfolio assessment records or other progress records and achievement information that demonstrates the student's level of learning and rate of learning;
  - (b) Other evaluation methods such as formal tests or informal assessment methods designed by teachers to determine the student's instructional level and rate of learning related to specific academic programs;
  - (c) Student interest, style, and learning preferences information from inventories or interviews; and
  - (d) Other measures determined by the school district to be relevant to the appropriate academic instructional program for the student.

Stat. Auth.: ORS 326.051 Stats. Implemented: ORS 343.391 - ORS 343.413 Hist.: EB 18-1996, f. & cert. ef. 11-1-96

### **581-022-1940**

#### **Appeal Procedure**

- (1) A complainant may direct an appeal of a final decision by a school district to the State Superintendent of Public Instruction if:
  - (a) The complaint alleges a violation of standards of the Oregon Administrative Rules, chapter 581, division 022; or
  - (b) A violation of other statutory or administrative rule requirements for which the State Superintendent has appeal responsibilities.
- (2) The appeal must be in writing and contain:
  - (a) The name and address of the person bringing the appeal, and the district in which that person resides;
  - (b) The name and address of the district which is alleged to have violated standards; and
  - (c) A brief statement indicating each standard the district is alleged to have violated and how the district is alleged to have violated it.
- (3) A decision is deemed final if:
  - (a) The district has failed to comply with the procedural time limits in its written complaint process;
  - (b) In a multi-step district complaint process, the district fails to render a written decision within 30 days of the submission of the complaint at each step; or
  - (c) The district fails to resolve a complaint within 90 days of the initial filing of a written complaint, regardless of the number of steps in the district complaint process.
- (4) Upon receipt of the appeal the State Superintendent will determine whether a violation of standards has been properly alleged and the requirements of section (2) of this rule have been satisfied.
  - (a) If the State Superintendent determines that the facts of complaint, if true, would be a violation of a standard, the appeal will be accepted and the procedures listed in this rule in the following sections will be applied;
  - (b) If the State Superintendent determines that the complaint, even if true, would not violate a standard, the appeal will not be accepted. In either case, the State Superintendent will give notice of the determination to the complainant and the school district.

(5) Within 30 days of receipt of notice of the State Superintendent's acceptance of the appeal, the district shall submit a written report with the State Superintendent which shall include:

- (a) A statement of facts;
- (b) A statement of district action, if any, taken in response to the complaint, or if none was taken, the reason(s) therefore;
- (c) A stipulation, if one was reached, of the settlement of the complaint; and
- (d) A list of any complaints filed with another agency by the party, concerning the subject of the appeal.

(6) The State Superintendent may for good cause extend the time for the filing of a report by the district.

(7) Upon receipt of the district's report, the State Superintendent will investigate the allegations of the complaint to the extent necessary including but not limited to:

- (a) Authorizing an on-site investigation; and
- (b) Conducting interviews, meetings and surveys and reviewing documents, data and district procedures.

(8) The State Superintendent will issue a written decision within 60 days of receiving the district's report that addresses each allegation in the complaint and contains reasons for the State Superintendent's decision as to whether or not the district is deficient. If the schools of the district are not open during the 60-day period due to summer vacation, the decision shall be issued within 60 days after the beginning of the school year.

(9) Notwithstanding section (8) of this rule, the State Superintendent may extend the time period for issuing a written decision on a complaint to a time period that is more than 60 days if the State Superintendent has the consent of the complainant and the allegation concerns a comprehensive or widespread deficiency and more extensive investigation is needed than may be reasonably completed within 60 days. The State Superintendent shall prepare a timeline and plan for investigation and provide copies to the complainant and district within two weeks of receiving the district's report.

(10) If a deficiency is found, the State Superintendent's written decision will include any necessary corrective action to be undertaken by the district as well as any documentation to be supplied to ensure that the corrective action has occurred.

(11) If a deficiency is not corrected, the provisions of ORS 327.103 will apply.

Stat. Auth.: ORS 326.051 Stats. Implemented: ORS 327.103 & 326.051 Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 31-2007, f. & cert. ef. 12-12-07

## **581-022-1510**

### **Guidance and Counseling**

(1) District Guidance and Counseling. Each school district shall provide a coordinated guidance and counseling program to support the educational and career development of students. The district shall:

- (a) Adopt guidance and counseling program goals which assist students to:
  - (A) Develop decision-making skills;
  - (B) Obtain information about self;
  - (C) Understand the educational opportunities and alternatives available to them;
  - (D) Establish tentative career and educational goals;
  - (E) Accept increasing responsibility for their own actions;
  - (F) Develop skills in interpersonal relations; and
  - (G) Utilize school and community resources.

(b) Specify instructional, guidance and counseling activities for the achievement of the goals;

(c) Assign guidance and counseling responsibilities to each school and to the appropriate personnel; and

- (d) Evaluate guidance and counseling programs for all grades.
- (2) School Guidance and Counseling. Each school shall provide a guidance and counseling program which:
- (a) Specifies goals including those assigned to the school district program;
  - (b) Identifies staff responsibilities and instructional, guidance and counseling activities to achieve guidance program goals;
  - (c) Identifies each student's guidance and counseling needs;
  - (d) Assists each student to develop an educational plan in grades 9–12 which identifies a tentative career goal and reviews the student's progress at least annually; and
  - (e) Assigns each student to a certificated staff member for individual support and advice.
- (3) Guidance Staff Assignments. Each school district shall maintain a guidance staff which promotes effective guidance practices consistent with the district's expected guidance program outcomes. In determining staffing for the program, the following shall be considered:
- (a) The number of students assigned to a certificated counselor;
  - (b) The number of aides or clerical staff assigned to the guidance program; and
  - (c) The extent to which the staffing pattern varies from general statewide practices.
- Stat Auth: ORS 326.051 Stats Implemented: ORS 326.051 Hist: EB 18-1996, f. & cert. ef. 11-1-96

### **581-022-1670**

#### **Individual Student Assessment, Recordkeeping, and Reporting**

Each district shall:

- (1) Assess and record each student's progress in all subject areas of instruction, including the Common Curriculum Goals:
- (a) Instruments and/or strategies used to determine student progress may assess multiple goals;
  - (b) Results from the assessment instruments and/or strategies may be used as a record of achievement level; and
  - (c) Records of student performance may be kept in teacher grade books, student folders, portfolios, or similar devices.
- (2) Assist teachers in adapting instruction and curriculum to meet the needs and learning rates of all students in attaining the goals of the subject area.
- (3) Annually report progress towards completion of graduation requirements to parents of students in grades 9 - 12.
- (4) Report at least annually on student progress in each subject area of instruction to parents or guardians of all students in grades K-12 including, but not limited to, the following:
- (a) Information on progress in each subject area (e.g., grades, checklists, folders, etc.) including major goals used to determine such information;
  - (b) Upon request from a parent or guardian, specific evidence of student progress on the goals of a subject area and
  - (c) Student scores on all state and local assessments required under OAR 581-022-1110 and 581-022-1120, indicating any of the requirements that have been waived for the school district or the individual and the time periods for the waiver.
- (5) Maintain student records under the student's legal name or establish a cross-reference system to locate the student's records by use of the student's legal name.

Stat. Auth.: ORS 326.051 Stats. Implemented: ORS 326.051 Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 18-2002, f. & cert. ef. 6-10-02

**Updated 2-2008**

## **Oregon Revised Statutes Talented and Gifted Programs**

### **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 of instruction for talented and gifted children.**

Any school district may submit to the Superintendent of Public Instruction 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; criteria.**

- (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 of Public Instruction 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 State Board of Education. 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 of Education.
- [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 of Public Instruction 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 State Board of Education 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 of Education, 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 of Public Instruction 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 under rules adopted by the State Board of Education. [1987 c.337 §3; 1993 c.45 §225]

**343.409 Talented and gifted programs required.**

School districts shall provide educational programs or services to talented and gifted students enrolled in public schools under rules adopted by the State Board of Education. [1987 c.337 §4; 1993 c.45 §226; 1993 c.749 §18]

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]

343.415 [1975 c.455 §2; 1991 c.693 §19; 1993 c.45 §228; renumbered 329.215 in 1993]

343.420 [1955 c.658 §1; 1961 c.541 §2; 1965 c.100 §414; repealed by 1975 c.621 §17]

343.425 [1975 c.455 §3; 1993 c.45 §229; renumbered 329.225 in 1993]

343.430 [1955 c.658 §3; 1961 c.541 §3; repealed by 1965 c.100 §456]

343.435 [1975 c.455 §4; renumbered 329.235 in 1993]

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]