**STATE BOARD OF EDUCATION – ADMINISTRATIVE RULE SUMMARY**

**Title/OAR #: Definitions for Regional Programs/ 581-015-2540; Eligibility for Regional Services/ 581-015-2550; Referral for Regional Services/ 581-015-2555**

**Date:** 10-17-13

**Staff/Office:** Lisa Darnold, Office of Learning/Student Services Unit

**New Rule** **Amend Existing Rule Repeal Rule**

**Hearing Date:** \_11-22-13  **Hearings Officer Report Attached**

**Prompted by:  State law changes  Federal law changes  Other**

See below.

**Action Requested:**

**Written Item/First Reading  Adoption  Adoption/Consent Agenda**

**PROPOSED/AMENDED RULE SUMMARY:** Removes explanation of severely orthopedically impaired in the definition of low incidence, high need disabilities. Removes severity requirement for Regional orthopedic impairment eligibility. Removes severity requirement for referral of a student with orthopedic impairment eligibility to Regional Services.

**BACKGROUND:** Currently, students who are eligible for special education based on an orthopedic impairment disability must be evaluated to determine the level of severity of the orthopedic impairment in order to qualify for Regional Services. There are six special education eligibility categories that qualify students for Regional Services. The orthopedic impairment eligibility category is the only one of the six that requires a severity determination. Thus, approximately 30% of orthopedically impaired students do not qualify for Regional services based on a severity rating assessment. All students who qualify for special education in the other five eligibility categories qualify for Regional services.

The Regional Management Team which is made up of Regional Program directors and ODE representatives, made a proposal in the spring of 2013 to remove the severity rating requirement to make all orthopedically impaired special education students eligible for Regional Services. The rationale is as follows:

* Orthopedic impairment continues to be a low incidence disability, with the approximate total number of students statewide being 1,568 as of the Dec. 1, 2010 census.
* This change will eliminate the time needed to identify students as severely orthopedically impaired.
* The time eliminated for identification will be utilized to provide service delivery to students.
* Provides for consistency of 100% inclusion as eligible for Regional Programs of all students identified as having a low incidence, high need disability.
* Eliminates confusion among parents and educators about why some low incidence disability students are eligible for Regional Services, and others are not.

**ISSUES/CONCERNS THAT SURFACED DURING RULE WORK:**

Each Regional program is required to have a Regional Advisory Council (RAC); the membership includes school district staff, Regional Program staff, and parents. The RAC councils across the state support this recommended change. In addition, the State Advisory Council for Special Education (SACSE) met in September, 2013. SACSE members are stakeholders representing parents, school district special education and general education staff, and persons with disabilities across the state of Oregon. ODE staff presented the proposed OAR amendments to the Council, soliciting feedback regarding the proposed changes. SACSE members unanimously support the recommended changes.

ODE staff researched IDEA regulations for orthopedic impairment definition to ensure the proposed change does not conflict with IDEA. The IDEA definition states in part:

*Orthopedic impairment means a severe orthopedic impairment that adversely affects a child’s educational performance.*

Therefore, under IDEA a student who is eligible for special education under the category of orthopedic impairment is also considered to have a severe orthopedic impairment. Requiring a determination that separates orthopedic impairment from a severe orthopedic impairment is redundant and not necessary.

**CHANGED SINCE LAST BOARD MEETING?**

N/A; first read—hasn’t been before board

No; same as last month

Yes – As follows:

**STAFF RECOMMENDATION**:

Adopt administrative rule as prepared this month

Adopt next month administrative rules as prepared

No recommendation at this time (rarely used)

**Updated by CH on 9/27/13**

**581-015-2540**

**Definitions for Regional Programs**

The following definitions apply to OAR 581-015-2545 through 581-015-2565 unless otherwise indicated by the context.

(1) "Administrative Unit" means the school district or ESD within each region chosen to operate the regional program through contract with the Department of Education.

(2) "Consultation services" means technical assistance to or conferring with the local education agency and staff or early intervention/early childhood special education providers and staff or families to assist them to provide services to eligible children.

(3) "Department" means the Oregon Department of Education.

(4) "Direct services" means services provided to the child by regional specialists.

(5) "Eligible children" means children with low-incidence, high need disabilities who need the services of the regional program.

(6) "Low incidence, high need disabilities" means one or more of the following categories under OAR 581-015-2130 through 581-015-2180: autism spectrum disorder, deafblindness, hearing impairment, orthopedic impairment, traumatic brain injury, and vision impairment.

(7) "Regional program" means direct or consultative services funded through the Department provided on a single or multi-county basis that assist school districts and early intervention/ early childhood special education providers in meeting the unique needs of eligible children.

(8) "Services" means early intervention services, early childhood special education and/or related services, and special education and/or related services, as defined in OAR 581-015-2700 and 581-015-2000, respectively.

(9) "Superintendent" means the State Superintendent of Public Instruction.

Stat. Auth.: ORS 343.236  
Stats. Implemented: ORS 343.236

**581-015-2550**

**Eligibility for Regional Services**

(1) The determination of a child's eligibility for services as a child with autism spectrum disorder, deafblindness, hearing impairment, traumatic brain injury, orthopedic impairment, or vision impairment is the responsibility of:

(a) The resident school district for children who are at the age of eligibility for kindergarten through age 21 in accordance with OAR 581-015-2130 through 581-015-2180; or

(b) The designated referral and evaluation agency for children who are at the age of eligibility for:

(A) Early intervention, from birth until the age of three in accordance with OAR 581-015-2780; and

(B) Early childhood special education, from the age of three until eligible for kindergarten in accordance with OAR 581-015-2795.

(2) Regional programs may assist the local district or designated referral and evaluation agency in evaluating and/or determining eligibility when the local district or the designated referral and evaluation agency does not have a person trained and experienced in the area of the suspected disability(ies).

(3) A child who is found eligible for services as a child with autism spectrum disorder, deafblindness, hearing impairment, traumatic brain injury, or vision impairment may be eligible for regional services if the child needs regional program services.

(4) A child who is found eligible for services as a child with orthopedic impairment may be eligible for regional services if the child is determined to be orthopedically impaired by his/her eligibility team based on eligibility tool(s) approved by the Department, and needs regional program services.

Stat. Auth.: ORS 343.236  
Stats. Implemented: ORS 343.236  
Hist.: EB 27-1988, f. & cert. ef. 6-9-88; EB 10-1996, f. & cert. ef. 6-26-96; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03; Renumbered from 581-015-0293, ODE 10-2007, f. & cert. ef. 4-25-07

**581-015-2555**

**Referral for Regional Services**

In referring a child to the regional program, the district or early intervention/early childhood special education program must provide the regional coordinator with the following information:

(1) A request for regional services;

(2) A statement of a child's eligibility in one of the following categories, if previously determined: autism spectrum disorder; deafblindness, hearing impairment, orthopedic impairment, traumatic brain injury, vision impairment, and;

(3) Additional information as the regional coordinator or other regional program representative may request. Stat. Auth.: ORS 343.236  
Stats. Implemented: ORS 343.236