

DEPARTMENT OF HUMAN SERVICES, MENTAL HEALTH AND
DEVELOPMENT DISABILITY SERVICES

DIVISION 49
RESIDENTIAL PROGRAMS

309-049-0000 Purpose and Statutory Authority

(Effective 01/12/1987)

(1) Purpose. These rules require providers of residential services to persons under 21 years of age with developmental disabilities to notify the public school system prior to establishing, expanding, or changing the program.

(2) Statutory Authority. These rules are authorized by [ORS 430.041](#) and carry out the provisions of [ORS 339.175](#).

Stat. Auth.: ORS 339 & [ORS 430](#)

Stats. Implemented:

309-049-0005 Definitions

(Effective 01/12/1987)

(1) "Developmental Disability (DD)" means a person with a disability which is attributed to mental retardation, cerebral palsy, epilepsy or other neurological handicapping condition which requires training similar to that required by persons with mental retardation. Characteristics of the developmental disability are that it:

(a) Originates before the person attains the age of 22 years, except that in case of mental retardation the condition must be manifested before the age of 18;

(b) Has continued, or can be expected to continue indefinitely;

(c) Constitutes a substantial handicap to the person's ability to function in society; and

(d) In the case of mental retardation, means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period. Persons of borderline intelligence may be considered to have mental retardation if there is also serious impairment of adaptive behavior. Definitions and classifications shall be consistent with the **"Manual on Terminology and Classification in Mental Retardation" of the American Association on Mental Deficiency, 1977 Revision**. Mental retardation is synonymous with mental deficiency. For community case management purposes, mental retardation includes those persons of borderline intelligence who have a history of residence in a state training center:

(A) "Adaptive Behavior" means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected for age and cultural group;

(B) "Developmental Period" means the period of time between birth and the 18th birthday;

(C) "Intellectual Functioning" means functioning as assessed by one or more of the individually administered general intelligence tests developed for that purpose;

(D) "Significantly Subaverage" means a score on a test of intellectual functioning that is two or more standard deviations below the mean for the test.

(2) "Disability Characteristics" means handicapping conditions such as mental retardation, seizures, motor dysfunction, cerebral palsy, behavior problems, communication disorders, visual and auditory dysfunction and other health impairments.

(3) "DD Residential Program" means DD residential homes and DD small residential homes serving residents with developmental disabilities who are under the age of 21. This rule does not apply to DD foster homes.

(4) "Resident" means a person served by and residing in a DD residential program.

(5) "Superintendent" means the highest ranking administrative officer in a school district or an educational institution, or in the absence of the superintendent, the person designated to fulfill the functions.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 339 & [ORS 430](#)

Stats. Implemented:

309-049-0010 Notice and Consultation With School Districts

(Effective 01/12/1987)

The Administrator or Board of Directors of any DD residential program intending to establish or expand services to persons under the age of 21, or intending to change the category of residents being served, shall provide written notification to the superintendent of any affected local school district. To assist local school districts in planning special education services for additional or different students with developmental disabilities, the written notification shall include information about the characteristics and needs of residents including but not limited to:

(1) Age ranges;

(2) Abilities to ambulate; and

(3) Expectations of residents' disability characteristics.

Stat. Auth.: [ORS 339](#) & [ORS 430](#)

Stats. Implemented:

309-049-0015 Three-Month Notification Requirement

(Effective 01/12/1987)

- (1) The written notification required by this rule shall occur not less than three months prior to events described in OAR 309-049-0010.
- (2) The three-month period, or any part of it, may be waived by agreement of the DD residential program and the affected school district.
- (3) Copies of the written notification shall be forwarded to the Director of the Community Mental Health Program, the Associate Superintendent of Special Education at the Oregon Department of Education, and to the Assistant Administrator of the Oregon Mental Health and Developmental Disability Services Division for DD Programs.

Stat. Auth.: [ORS 339](#) & [ORS 430](#)

Stats. Implemented:

309-049-0020 Exclusion

(Effective 01/12/1987)

This rule does not apply to changes in, or expansion of, DD residential programs for less than 30 days duration.

Stat. Auth.: [ORS 339](#) & [ORS 430](#)

Stats. Implemented: