

**DEPARTMENT OF HUMAN SERVICES
SENIORS AND PEOPLE WITH DISABILITIES DIVISION
OREGON ADMINISTRATIVE RULES**

CHAPTER 411

**DIVISION 315
DEVELOPMENTAL DISABILITIES HOUSING TRUST ACCOUNT**

411-315-0010 Statement of Purpose

(Effective 4/5/2006)

Purpose. These rules prescribe standards, responsibilities and procedures for operation of the Developmental Disabilities Housing Trust Account. The Community Housing Trust Account provides grants to perform construction activities and provide equipment in homes where children or adults with developmental disabilities live that enhance their opportunities to achieve well-being through community living.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 427.330 - 427.345

411-315-0020 Definitions

(Effective 4/5/2006)

(1) "Adult" means an individual 18 years or older with a developmental disability.

(2) "Care Provider" means an individual, family member or entity that provides care for a person or persons with a developmental disability.

(3) "Change Order" means requested additional work on an approved project, which may increase the cost.

(4) "Child" means an individual with a developmental disability who is less than 18 years of age.

(5) "Community Housing" means real property, including but not limited to buildings, structures, improvements to real property and related equipment that is used, or could be used, to house and provide care for individuals with mental retardation or other developmental disability. "Community Housing" includes a single-family home or multiple-unit residential housing that an individual with a developmental disability shares with other inhabitants, including but not limited to family members, care providers or friends. "Community Housing" does not include the Eastern Oregon Training Center.

(6) "Community Housing Trust Account" or "Trust Account" means an account within the Developmental Disabilities Community Housing Fund which includes proceeds from the sale, transfer or lease of any surplus real property owned, operated or controlled by the Department and used as a state training center, of which 95% of the sale or transfer amount will remain in the account in perpetuity. Interest earned in the account and 5% of the sale or transfer proceeds may be used for Community Housing.

(7) "Construct" means to build, install, assemble, expand, alter, convert, replace or relocate. "Construct" includes installation equipment and preparation of a site.

(8) "Contractor" means an individual or business that is registered with the Oregon Construction Contractors Board who, for compensation or with the intent to sell, arranges or undertakes or offers to undertake or submits a bid to construct, alter, repair, add to, subtract from, improve, inspect, move, wreck or demolish, for another, any building or improvement attached to real estate or any part thereof. "Contractor" includes general contractors and specialty contractors as defined in OAR 812-002-0100.

(9) "Department" means the Department of Human Services, Seniors and People with Disabilities, unless otherwise noted.

(10) "Developmental Disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy or other neurological handicapping condition or severe physical impairment that requires training similar to that required by mentally retarded persons, and the disability:

(a) Originates before the person attains the age of 22 years;

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

(c) Constitutes a substantial handicap to the ability of the person to function in society.

(11) "Developmental Disabilities Community Housing Fund" means a fund in the Oregon State Treasury, separate and distinct from the General Fund, in which funds are deposited and disbursed to the Department to pay expenses incurred in carrying out the provisions of ORS 427.330 and 427.335. Interest earned accrues to the fund.

(12) "Equipment" means furnishings, fixtures, appliances, special adaptive equipment or supplies that are used or could be used to provide care in Community Housing.

(13) "Family Member" means a person who is related by blood, marriage, or legal adoption to an individual with a developmental disability; or is in a domestic relationship where partners share:

(a) A residence;

(b) Joint responsibility for the household in general (e.g. child-rearing, maintenance of the residence, basic living expenses);

(c) Joint responsibility for supporting a member of the household with disabilities related to one of the partners by blood, marriage, or legal adoption.

(14) "Financial Assistance" means a grant or loan to pay expenses incurred to provide Community Housing.

(15) "Grievance" means a formal or informal complaint from an individual or care provider regarding the disposition of a funding request for a Trust Fund Account project.

(16) "Grievance Officer" means an employee of the Department appointed by the Assistant Director of Seniors and People with Disabilities that hears a formal Grievance and makes a recommendation for determination to the Assistant Director of Seniors and People with Disabilities.

(17) "Housing Provider" means an individual or entity that provides Community Housing.

(18) "Individual" means a person with developmental disabilities for whom services are planned or provided.

(19) "Mortgage" means a conditional and time limited pledge of property to the Department in exchange for funds expended to build, renovate or adapt real property for use by individuals with developmental disabilities.

(20) "Owner" means the organization or person owning the residence where individuals with developmental disabilities live or plan to live and receive services. Owners may include, but are not limited to: families, licensed service providers, foster providers or housing development organizations.

(21) "Region" means a group of counties organized to provide efficient delivery of various services to individuals with developmental disabilities.

(22) "Scope of Work" means a detailed outline of work to be performed, including any necessary drawings suitable for contractor bidding, and including all information that might be required for obtaining a building permit.

(23) "Specifications" means a detailed list of the type and quality of materials (which may include brand names and model numbers) and standards of work necessary for bidding or performing work.

(24) "Support Plan" means a written document describing the assistance individuals require to maintain or increase independence and achieve well-being through community living.

(25) "Trust Deed" means an instrument which transfers (conveys) legal title of a property to a trustee, for the benefit of the beneficiary or grantee named therein, to be held pending fulfillment of obligations secured by such instrument.

(26) "Trust Deed Note" means a promissory note secured by a Trust Deed.

(27) "Trust Advisory Committee" means an advisory committee consisting of individuals, family members, advocates, Care Providers, case managers and Housing Providers that make recommendations to the Department about policy and procedures concerning the operation of the Community Housing Trust Account.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 427.330 - 427.345

411-315-0030 Eligible Recipients, Residences and Projects

(Effective 4/5/2006)

(1) Non-discrimination. All eligible individuals will have access to resources governed by this rule, within available resources. Access to service will not be restricted due to race, color, creed, national origin, citizenship, age, income or duration of Oregon residence.

(2) Eligible recipient. An Oregon resident, child or adult, with a developmental disability, eligible for services prescribed by ORS 430.610 or a not-for-profit Housing Provider under conditions described in OAR 411-315-0050(3) are eligible recipients.

(3) Eligible residence. Any primary residence that is not a licensed site for services, where an individual with a developmental disability resides or intends to reside is eligible as a location for funding. The residence may be owned by the individual with a developmental disability, family member, Care Provider, a corporation, government entity, partnership or private party.

(4) Eligible housing adaptations and equipment. Dwelling adaptations and equipment eligible for funding must meet the following criteria:

(a) Be necessary to ensure the health, welfare, and safety of the individual in the home or enable the individual to function with greater independence in the home;

(b) Be identified in a Support Plan; and

(c) Be a cost-effective solution to the support needs the adaptation is intended to address as determined by the Department.

(5) Determination of cost effectiveness will consider the wishes of the individual and Care Provider and be based on:

(a) Cost evaluation of alternative ways to accomplish the requested housing support;

(b) Commonly accepted standards of residential construction;

(c) Current cost data formatted according to the Construction Specifications Institute; and

(d) Average cost of commercially manufactured equipment and specialty products.

(6) Application may be made to the Community Housing Trust Account for adaptations that are contingent on securing other funds for a project. Approval of these projects will include a final date for project completion and disbursement of funds. If funds are not disbursed by the agreed upon date, and arrangements for an extension have not been made, the approval will be withdrawn. Approval and disbursement of funds will be subject to the same rules and conditions as other projects.

(7) Funds from the Housing Trust Account may not be used for rental assistance, routine maintenance and repair, or to make adaptations or improvements to the home that are not consistent with the authorized purposes of the program.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 427.330 - 427.345

411-315-0040 Housing Trust Account Income and Expenditures (Effective 4/1/2003)

(1) Income. The Community Housing Trust Account consists of revenue from the sale, lease or transfer of any state training center, and other funds allocated by the Department of Human Services. The funds will be

deposited in a designated account with the Oregon State Treasury. Interest earned by funds deposited in the Account will accrue to that Account.

(2) Expenditures. The Department may expend any earnings credited to the Account, including interest earned on funds deposited in the Account and any income from the lease of surplus property by the Department. In addition, the Department may expend five percent (5%) of the total sale price of any state training center that is designated to the account through a purchase agreement.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 427.330 - 427.345

411-315-0050 Allocation of Funds
(Effective 4/5/2006)

(1) The Department will determine the amount of money to be allocated for Trust Account projects annually based on recommendations by the Trust Advisory Committee.

(a) The allocation will be designated by region in consideration of:

(A) The number of adults and children with developmental disabilities in each region; and

(B) Priorities for funding established by the Department in consultation with the Trust Advisory Committee.

(b) All county Developmental Disabilities offices and Regional offices will be notified of the funds available annually.

(2) The Department will reallocate funds unencumbered or unspent by regions annually on July 1. Allocation amounts and remaining funds will be published on the Department's web site and will be updated quarterly.

(3) Based on recommendation of the Trust Advisory Council, the Department may designate a portion of the Community Housing Trust Account allocation that was not encumbered or disbursed in the previous fiscal year to fund grants to not-for-profit Housing Providers for

predevelopment activities for larger projects. Allocation of these funds will be statewide, and publicized on the Department's web site. Proposals must be consistent with the mission of the program and may be used for the following activities:

- (a) Architectural design;
- (b) Environmental studies;
- (c) Appraisals;
- (d) Federal or State application fees;
- (e) Securing property; or
- (f) Other development costs approved by the Department.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 427.330 - 427.345

411-315-0060 Application/Award/Disbursement Procedures
(Effective 4/5/2006)

(1) Notification. The Department will write and publish procedures for making application for funding from the Housing Trust Account.

- (a) Procedures will include:
 - (A) A description of the program and eligibility;
 - (B) The application form and instructions for completion;
 - (C) Proposal evaluation criteria; and
 - (D) A description of the grievance procedure.
- (b) The Department will make effort to achieve a broad distribution of the program description, procedures, and application, including

making it available to traditionally under-served and underrepresented populations.

(2) Application. Application for funding of a housing adaptation must be submitted on a form prescribed and distributed by the Department. Final applications to be considered for funding must be complete. If the project is in a home not owned by a Care Provider or by the individual for whom the adaptation is intended, the application must also include written permission by the owner of the property to make the adaptation. If an applicant is not able to provide all the information required on the application form, he or she may request technical assistance.

(3) Technical Assistance. Applicants may request assistance in completing any of the required information on the application by checking an appropriate box on the form. Applicants requesting technical assistance must describe the support needs requiring a housing modification or equipment and any solutions considered.

(a) Within the parameters of their workload, Department staff will provide technical assistance to individuals and Care Providers for:

- (A) Exploring possible solutions to housing problems;
- (B) Providing information about building products and practices;
- (C) Defining Scopes of Work for projects;
- (D) Writing Specifications; and
- (E) Completing applications.

(b) The Department may also arrange for technical assistance by architects, contractors or other experts in the construction and remodel of residences for individuals with developmental disabilities. Funding of technical assistance is an approved use of Trust Account resources.

(4) Determination. Completed applications for funding will be accepted and reviewed by an employee designated by the Assistant Director of the Department. Completed applications will be reviewed in the order they are

received and applicants notified of the determination. Applications reviewed by the Department will receive the following determination:

- (a) Awarded subject to conditions outlined in the award letter;
- (b) Returned to the applicant with a request for additional information;
- (c) Deferred for consideration in the next quarter; or
- (d) Denied for reason(s) described in the notification.

(5) Award. Grants from the Community Housing Trust Account will be awarded in consideration of factors identified in OAR 411-315-0030(5), as well as consideration of:

- (a) The amount of funds requested in relation to the number of pending requests; and
- (b) Consideration of the most effective overall use of resources available.

(6) Availability of Funds. Applications reviewed and found acceptable will be awarded subject to the availability of funds.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 427.330 - 427.345

411-315-0070 Project Monitoring and Disbursement of Funds *(Effective 4/5/2006)*

(1) Housing adaptation must be performed by a Contractor that is licensed by the Oregon Construction Contractors Board. The Department will verify the license status of Contractors selected. Work must conform to all applicable statutes and building codes.

(2) The Department will identify the entity or person responsible to inspect the work and the method of payment in the award letter. When recorded security documents are required, the Department will identify the entity or person responsible to record those documents in the award letter.

(3) The person or entity to which the award has been made will notify the Department when authorized and funded work has been completed or approved equipment purchased and installed. The Department or its designee will inspect the work and determine if the work is satisfactory. Final payment will be made only for fully completed work accepted by the Department.

(4) The Department may make interim payments for housing projects based on:

(a) Receipts for materials purchased for the project; or

(b) Percent of work completed as verified by the Department.

(5) The Department may expend grant funds for minor home adaptations or equipment through any legal payment mechanism. Funds will be expended only on the basis of requests that include invoices for work, materials or equipment.

(6) Record Keeping. The Department will maintain records of available funds and all approved expenditures. Records will be updated quarterly. Current balances will be made available to each region.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 427.330 - 427.345

411-315-0080 Trust Advisory Committee

(Effective 4/5/2006)

(1) Membership and Term. A Trust Advisory Committee will be formed consisting of not less than 8 members including at least one individual, family member, advocate for individuals with developmental disabilities, service broker, case manager, Department staff, and not-for-profit Housing Provider. The Assistant Director of the Department or his or her designee will appoint members. Members will be appointed for a four-year term, and may be re-appointed one time. The Assistant Director or his or her designee will appoint interim vacancies. A Department employee will serve as staff for the Trust Advisory Committee and will convene the meetings.

The Department will provide clerical support to the Trust Advisory Committee.

(2) Meeting Schedule. The Trust Advisory Committee will meet not less than two times each year.

(3) Responsibilities. The Trust Advisory Committee will annually:

(a) Recommend to the Department, a formula for distribution of available resources;

(b) Recommend to the Department, allocation of funds by Region;

(c) Recommend to the Department, the minimum and maximum amount of grant awards;

(d) Conduct a review and evaluation of procedures and allocation of funds; and

(e) Make policy recommendations concerning the operation of the program and funding priorities.

(4) Trust Advisory Committee members may hear informal Grievances upon request.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 427.330 - 427.345

411-315-0090 Grievance Procedures

(Effective 4/5/2006)

A decision not to fund an application to the Housing Trust Account may be grieved according to these grievance procedures.

(1) The applicant will be notified in writing of his or her grievance rights and procedure at the time of notification regarding funding. Individuals, Care Providers, or their legal representatives may file a Grievance concerning the determination that resulted in a denial of funding. Grievance procedures will be published in the procedure manual.

(2) Informal Procedures. An attempt to resolve a Grievance through informal procedures must be the first step in seeking resolution. The grievant may select one of the following methods:

- (a) Meet with a Department staff member;
- (b) Meet with a member or sub-committee of the Trust Advisory Committee; or
- (c) Meet with a designee of the Assistant Director of the Department.

(3) Informal procedures will result in a decision on the Grievance no later than 30 days from the date the Grievance is filed. The 30-day time period may be extended by mutual decision of the grievant and the Department. The grievant will receive written notice of the Grievance decision or outcome within 5 working days of the informal meeting selected in section (2) of this rule.

(4) If the result of the informal procedure is not acceptable to the grievant, a request for formal review may be made to the Assistant Director of the Department. The Assistant Director will appoint a Grievance Officer to conduct a formal review.

(5) The Grievance Officer will afford individuals the following rights:

- (a) The opportunity to review documents and other evidence relied upon in reaching the decision being grieved;
- (b) The opportunity to be heard in person and to be represented; and
- (c) The opportunity to present witnesses or documents to support their position and to question witnesses presented by other parties.

(6) Within 15 days after the conclusion of the hearing described in section (5)(b) and (c) of this rule, the Grievance Officer will provide written recommendations to the Assistant Director of the Department. The Assistant Director will make a decision and send written notification of the recommendations to all participants within 15 days of the receipt of the recommendations. The decision of the Assistant Director will be final.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 427.330 - 427.345

411-315-0100 Securing State Funds
(Effective 4/1/2003)

When the total cost of equipment or a housing adaptation, including change orders, is greater than \$5,000, the Department may secure the interest of the State by appropriate means, including, but not limited to, Mortgages, Trust Deeds and promissory notes. Security agreements will be executed prior to the beginning of construction.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 427.330 - 427.345