

Chapter 336

Conduct of Schools Generally

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|---------|--|---------|--|
| 336.010 | School month; holidays; teachers' holiday pay | 336.220 | Excuse from participation in health and physical education programs |
| 336.020 | Days of institute to be counted as days of school attendance | 336.230 | Instruction in United States Constitution |
| 336.030 | Rules for school government | 336.240 | Instruction in ethics and morality |
| 336.040 | Noon intermission during rainy season | 336.250 | Instruction in kindness to animals |
| 336.050 | Grade placement of pupils | 336.260 | Attendance at religious instruction |
| 336.060 | Nursery schools and extended school day services | 336.270 | Teaching in foreign language prohibited |
| 336.070 | Admission of pupils | 336.280 | State eighth grade examinations; graduation certificates; county testing plan |
| 336.080 | Refusal of admission in districts with over 20,000 school age population | 336.290 | Conduct of examination; compensation of examiner |
| 336.090 | Exclusion of children mentally unable to benefit from further instruction | 336.300 | County board of examiners |
| 336.100 | Rules for exclusion | 336.310 | Duties of county board of examiners |
| 336.110 | Procedure for exclusion; opportunity for hearing | 336.320 | Compensation of county board |
| 336.120 | Demand for hearing; notice of time and place for hearing | 336.330 | Report of pupils passing |
| 336.130 | Conduct of hearing; witnesses; record | 336.340 | Fire drills; unlocked exits; instruction in fire dangers; preparation and distribution of text |
| 336.140 | Board action after hearing | 336.350 | Arbor Day exercises |
| 336.150 | Review by circuit court | 336.360 | Exercises prescribed |
| 336.160 | Duty of pupils; cause for suspension or expulsion | 336.370 | Frances E. Willard Day exercises |
| 336.170 | Injury of school property by pupil | 336.380 | Dental inspections in districts with more than 25,000 pupils |
| 336.180 | School hours of pupils under eight years of age | 336.390 | Equipment; quality of work; charges; consent of parents |
| 336.190 | Health instruction and physical education required | 336.400 | Report to parents; selection of dentist; certificate of treatment |
| 336.200 | State direction of program | 336.410 | Nonliability for injury from treatment |
| 336.210 | Responsibility of county and city school superintendents under health and physical education program | 336.420 | Cooperation and sharing expense |
| | | 336.430 | Unauthorized soliciting of pupils prohibited |
| | | 336.440 | Secret societies in public schools prohibited; school board duty |
| | | 336.990 | Penalties |

CROSS REFERENCES

- | | |
|---|---|
| Control of district schools, 332.110, 335 010, 342 580 | 336.090 |
| Rules and regulations of state agencies, 183 020 | Exclusion of diseased, exposed or insanitary pupils, 433 255 to 433 270 |
| 336.060 | 336.230 |
| Kindergartens, 332 200 | Required course of study, 332 115 |
| 336.070 | 336.340 |
| Admission of pupils in districts containing 20,000 school children, 332 440 | Doors and exits to be kept open, 479 140 |
| Nonresident pupils, 332 140 | Fire drills required, 479 140 |
| Pupils from suspended districts, 332 130 | |

336.010 School month; holidays; teachers' holiday pay. The common school month shall consist of 20 days. No school shall be open in any district for the purpose of ordinary instruction on any Saturday, or on any legal holiday, or in any county during the time of holding the annual county institute therein. Days on which an election is held throughout the state shall be school holidays for such schools only in which the schoolroom is used for election purposes. The twelfth and twenty-second days of February, the first Monday in September, and the twelfth day of October shall not be school holidays, but a portion of said days shall be set apart and observed in the public schools of the state by appropriate exercises. When holidays occur during a session of school, teachers shall be allowed full pay for such holidays

336.020 Days of institute to be counted as days of school attendance. A school district may count up to a maximum of five teaching days a year as actual days of school attendance of pupils for those days the district school is not in session because of a county or local institute or meeting held jointly by the county school superintendent and Superintendent of Public Instruction for the inservice training of teachers. The total of days of actual attendance on the first day school is in session subsequent to such an institute or meeting shall be used as the basis for counting attendance for each day the institute or meeting is in session

336.030 Rules for school government. Each district school board may establish rules and regulations for the government of the schools and pupils consistent with the rules and regulations of the State Board of Education

336.040 Noon intermission during rainy season. Any district school board may shorten the noon intermission during the rainy season to 30 minutes, and close the school at 3:30 p.m

336.050 Grade placement of pupils. Each district school board shall require each teacher to determine the grade placement of their pupils in conformity with the school board's directions.

336.060 Nursery schools and extended school day services. Any district school board, under rules, regulations, standards

and teacher certification requirements established by the State Board of Education, may sponsor, maintain, operate and supervise nursery schools for children between the ages of two and six years, and extended school services for children of school age. The full cost for nursery schools shall be borne by fees, grants in aid or gifts from sources other than regular district revenues. The district school board may establish the hours of operation of such nursery schools and extended school day services for children of school age.

336.070 Admission of pupils. District school boards shall admit free of charge to the schools of their district all persons between the ages of 6 and 21 residing therein. All other persons may be admitted on such terms as the district may direct. A child entering school for the first time during the fall term shall be deemed to be six years of age if his sixth birthday occurs on or before November 15, and in schools organizing a beginning first-year class in midwinter a child entering school for the first time shall be deemed to be six years of age if during the midwinter term his sixth birthday occurs on or before March 15. School boards may rule that a child eligible to enter a beginning first-year class at the opening of the fall term or midwinter term, but who does not enter within the first four weeks of such term may be denied entrance for the remainder of the school year or until another beginning first-year class is organized during that year.

336.080 Refusal of admission in districts with over 20,000 school age population. At the option of the city superintendent of any school district having more than 20,000 children of school age, primary pupils of the first grade may be refused admission to the schools after the first month of each term and until the beginning of the succeeding term. The decision of the city superintendent in each case shall be final.

336.090 Exclusion of children mentally unable to benefit from further instruction. Any district school board may exclude permanently from the public schools of its district any child over 10 years of age found to be mentally unable to benefit further from the instruction offered in such schools, in the manner provided in ORS 336.100 to 336.140

336.100 Rules for exclusion. The State Board of Education shall establish rules and regulations governing the procedure for determining when a child is mentally unable to profit from the instruction offered in the public schools.

336.110 Procedure for exclusion; opportunity for hearing. Whenever the administrative head of any school district finds, under the rules and regulations established by the State Board of Education, that any child over 10 years of age is mentally unable to benefit further from the instruction offered in the public schools of such district, such administrative head shall submit the evidence of mental retardation to the Superintendent of Public Instruction, who shall review the same and approve the exclusion request if in conformity with such rules and regulations. The administrative head shall promptly notify the person having legal custody and control of such child of such determination and that unless such person demands a hearing in the manner and within the time specified in ORS 336.120, an order will be made by the board permanently excluding such child from school.

336.120 Demand for hearing; notice of time and place for hearing. Any person having legal custody and control of the child, who feels aggrieved by any determination made as provided in ORS 336.110, may demand a hearing thereon by written notice and demand delivered to the school clerk of such district within 15 days from the receipt of notice of such determination. If no notice is given to the school clerk within said 15-day period, an order shall be made which shall be final. If notice is given as provided in this section, the district school board shall set a time and place for hearing thereon and shall give the person demanding such hearing not less than 10 days' advance written notice of the time and place thereof.

336.130 Conduct of hearing; witnesses; record. (1) At the time and place fixed for the hearing provided for in ORS 336.120, the district school board shall conduct a full and fair hearing upon the question of the child's mental ability to benefit further from the instruction offered in the public schools of such school district. Both the board and the complaining party shall be entitled to be represented in person or by attorney, and

adduce any competent evidence relevant and material to the issue.

(2) The board shall have full power to issue subpoenas to compel the attendance of witnesses at such hearing. At the complaining party's request, all witnesses desired by said party shall be subpoenaed by and at the expense of the board except that the board shall not be accountable for the witness fees and mileage of more than 10 of such witnesses so subpoenaed on behalf of the complaining party. Subpoenas for witnesses to testify either in support of such exclusion or on behalf of the complaining party shall, as requested, be issued in blank by the board over the signature of its chairman or clerk and the seal of the district, and such witnesses shall be entitled to receive the same mileage and per diem as witnesses called in civil cases in the circuit courts of the state. Witnesses so subpoenaed shall be compelled to appear and submit to examination and shall be subject to the same penalties for perjury or contempt as are provided in ORS 33.020 and 162.120. All witnesses shall testify under oath or affirmation to be administered by any member of the board or the clerk thereof, and full opportunity for examination and cross examination shall be accorded to each party.

(3) The board shall employ a competent person to report the full proceedings, which record shall be available without charge for the use of the complaining party in the event he wishes to apply to the courts for a writ of review.

336.140 Board action after hearing. At the conclusion of the hearing, the board shall render its decision on the evidence submitted at such hearing and not otherwise. In all such hearings the findings and order of the board shall be in writing, and a copy shall be served upon the complaining party.

336.150 Review by circuit court. If the decision of the board, after hearing, orders the permanent exclusion of the child, the complaining party may apply to the circuit court for the county in which the school district is situated for a writ of review within the time provided by law for applications for writs of review. The circuit court thereupon shall review the proceedings before the board in the manner provided by ORS 34.010 to 34.100. In counties having a department of domestic relations the proceedings shall be reviewed by the department of domestic relations of said court.

336.160 Duty of pupils; cause for suspension or expulsion. (1) Public school pupils shall comply with lawful regulations for the government of such schools, pursue the prescribed course of study, use the prescribed textbooks and submit to the teachers' authority.

(2) Wilful disobedience, open defiance of a teacher's authority or the use of profane or obscene language are sufficient cause for suspension or expulsion from school.

336.170 Injury of school property by pupil. (1) No pupil shall, in any way cut, deface or otherwise injure any schoolhouse, fences or school outbuildings

(2) Violation of subsection (1) of this section shall render the pupil liable to suspension and punishment. On complaint of the teacher, the parents of such pupil shall be liable for damages to the amount of the injury as determined by the district school board and for costs if the district school board brings a successful action for the recovery of such damages

336.180 School hours of pupils under eight years of age. Pupils under eight years of age may be dismissed after a four hours' session. When such dismissal is not practicable, pupils of such ages may be allowed recesses of such length that the actual confinement in the schoolroom does not exceed three and one-half hours daily

336.190 Health instruction and physical education required. (1) District school boards shall provide in their respective schools, programs of health instruction and physical education for the development of health and physical fitness for all elementary and high school pupils in such schools in order to promote, develop and maintain among pupils at all age levels optimum physical growth, health and physical fitness.

(2) The physical education program shall be so planned as to develop as minimum essentials normal symmetrical growth, organic vigor, strength and endurance, good posture, skills of bodily movement and coordination, and high levels of such qualities as agility, strength, speed, power, endurance, flexibility, balance, relaxation and such other physical qualities as the Superintendent of Public Instruction may deem important.

(3) The health instruction program shall be planned to give instruction in personal hygiene, community health and sanitation, communicable diseases, nutrition, mental

health, safety education, first aid, choice and use of health services and health practices, structure and functioning of the human body, physiological effects of exercise and the effects of alcoholic beverages and narcotics upon the human system.

336.200 State direction of program. The health instruction and physical education programs shall be under the general direction of the Superintendent of Public Instruction. He shall.

(1) Prescribe for, with the advice of the State Board of Health, a program of health examinations of pupils in the elementary and secondary schools necessary to achieve the purposes of ORS 336 190.

(2) Provide and recommend program materials consisting of such elements as sports activities, developmental activities, disciplinary exercises, corrective exercises and rhythmic, provide and recommend informational materials, teaching techniques, and suggest class schedules such as shall be suitable to the achievement of the purposes of ORS 336 190 in schools of various types and sizes.

(3) Provide checks and standards by which the progress of individual pupils can be evaluated, and the schools rated in terms of their meeting the purposes of ORS 336.190.

(4) Coordinate the activities of the governmental agencies which carry on functions in the schools related to the purposes of ORS 336.190.

(5) Employ in his office the necessary trained personnel to plan, supervise, direct and evaluate the programs conducted in the schools.

(6) Make such rules and regulations as are necessary for the implementation of ORS 336.190 to 336.220.

336.210 Responsibility of county and city school superintendents under health and physical education program. County school superintendents and city school superintendents shall carry out rules and regulations laid down by the Superintendent of Public Instruction for the implementation of ORS 336.190 to 336.220.

336.220 Excuse from participation in health and physical education programs. (1) Upon request by the parent of a high school pupil, and after consultation between such parent and the pupil's high school principal, the principal may partially or totally excuse

such pupil from participation in the high school physical education and health program for such part of the last two years of the pupil's high school studies as is agreed upon between parent and principal. If the parent and principal are unable to agree, the matter may be submitted for final decision to the governing body of the school district operating the high school which such pupil attends.

(2) Any pupil who objects to the provisions in ORS 336 190 to 336 210 on constitutional or religious grounds shall not be required to submit himself to the specific requirements to which objection is made when his constitutional rights will be violated, if a statement of such objection signed by a parent or guardian of the pupil is presented to the district school board. [Amended by 1953 c 561 §2]

336.230 Instruction in United States Constitution. In all public and private schools in Oregon there shall be given regular courses of instruction in the Constitution of the United States. Such instruction shall begin not later than the opening of the eighth grade. It shall continue in the high school course and in the courses in state colleges, universities and the educational departments of state and municipal institutions to an extent to be determined by the Superintendent of Public Instruction.

336.240 Instruction in ethics and morality. Each teacher employed to give instruction in the regular course of the first 12 grades of any public school shall so arrange and present the instruction as to give special emphasis to honesty, morality, courtesy, obedience to law, respect for the national flag, the Constitution of the United States and the Constitution of the State of Oregon, respect for parents and the home, the dignity and necessity of honest labor and other lessons of a steadying influence which tend to promote and develop an upright and desirable citizenry. The Superintendent of Public Instruction shall prepare an outline with suggestions as, in his judgment, will best accomplish the purpose of this section, and shall incorporate the same in a course of study for the first 12 grades of all schools of the State of Oregon.

336.250 Instruction in kindness to animals. In every public school not less than one-quarter hour of each week during the whole of each term of school shall be de-

voted to teaching the pupils thereof kindness and justice to and humane treatment of animals, and the important part they fulfil in the economy of nature. They shall be taught the true relation of the human to the animal life, the value of life and the cowardice of needless killing or any act of cruelty to man or beast, inculcating a love for truth, justice and that beautiful generosity that makes the strong supporters, instead of oppressors, of the weak. It shall be optional with each teacher whether it shall be a consecutive half hour or shorter periods daily. This instruction shall be a part of the curriculum of study in all public schools.

336.260 Attendance at religious instruction. Any child attending the public school, on application of his guardian or either of his parents, may be excused from such school for a period or periods not exceeding 120 minutes in any week to attend weekday schools giving instruction in religion.

336.270 Teaching in foreign language prohibited. No board of school directors, regents or trustees, or any teacher or other person teaching in the public or private schools shall cause to be taught or teach any subject other than foreign languages in such schools in any language except English.

336.280 State eighth grade examinations; graduation certificates; county testing plan. (1) The Superintendent of Public Instruction, at such time as he may deem advisable but not oftener than three times each year, shall prepare questions for use in the examinations of the pupils who have completed the eighth grade in accordance with the provisions of the state course of study. He shall prescribe uniform rules and regulations for the conducting of such examinations and prepare blank certificates of graduation for pupils successfully passing such examinations according to the standard prescribed by the State Board of Education.

(2) The certificates shall be executed by the county school superintendent of the pupils' respective counties. A certificate so granted shall entitle the holder thereof to entrance into any ninth grade in the state without further examination.

(3) The Superintendent of Public Instruction may accept an organized plan of supervision and testing when proposed by the county school superintendent of any county in lieu of the state eighth grade examination for that county.

(4) This section does not compel district

school boards to admit nonresident pupils without tuition charge.

336.290 Conduct of examination; compensation of examiner. The teachers of the district in which the state eighth grade examination is being held shall conduct such examination in accordance with the rules and regulations prescribed by the Superintendent of Public Instruction. The person conducting the examination shall, within one day after the close of the examination, transmit the manuscripts to the county school superintendent. If school is not in session the district school board shall designate some person whom they deem qualified to conduct such examination who shall receive \$2 per day for the time actually employed in conducting the examination, but such person shall not receive pay for more than two days for any one examination. Any claim for compensation for services under this section shall be certified to by the county school superintendent, audited by the district school board and paid out of the school fund of the district.

336.300 County board of examiners. For the purpose of examining and grading the manuscripts of pupils taking the state eighth grade examination, the county school superintendent may appoint for each examination four persons, who, with the county superintendent, shall constitute a county board of examiners. No person shall be eligible for appointment as a board member who does not at the time of his appointment hold a valid teacher's certificate in full force and effect in said county. The county school superintendent, or some board member appointed by him, shall be chairman of the board. A majority shall constitute a quorum.

336.310 Duties of county board of examiners. The county board of examiners shall meet at the county seat at the call of the county school superintendent, for the purpose of examining and grading the manuscripts of pupils taking the state eighth grade examinations. No questions shall be used in such examination except those prepared by the Superintendent of Public Instruction.

336.320 Compensation of county board. Each member of the county board of examiners, except the county superintendent, shall receive the sum of \$3 per day for the time actually employed in the examination. No examiner shall receive pay for more than

three meetings of said board in any one year, nor for more than three days at any one of such meetings. Any claim for compensation for services under this section shall be certified to by the board, audited by the county court and paid out of the general fund of the county.

336.330 Report of pupils' passing. The county school superintendent shall report to the Superintendent of Public Instruction within two days after any meeting of the county board of examiners, the names of all pupils passing any state eighth grade examination together with such other facts relating to said pupils or said examination as the Superintendent of Public Instruction may require.

336.340 Fire drills; unlocked exits; instruction in fire dangers; preparation and distribution of text. Each person in charge of a public or private school or educational institution having an average daily attendance of 50 or more pupils shall instruct and train the pupils by means of drills, so that they may, in sudden emergency, be able to leave the school building in the shortest possible time and without confusion or panic. Such drills or rapid dismissals shall be held at least once for each month when the schools are in session. All doors of exits shall be kept unlocked during school hours.

(2) Every teacher or instructor in every public, private or parochial school shall devote not less than 30 minutes in each month during which the school is in session to instruction of pupils between the ages of 6 and 14 years in fire dangers and drills.

(3) For the purpose of such instruction the Superintendent of Public Instruction shall prepare a book conveniently arranged in chapters or lessons sufficient to provide a different chapter or lesson for each week of the maximum school year. One of such lessons shall be read by the teachers in such schools each week. The book shall be published at the expense of the state under the direction of the Superintendent of Public Instruction and distributed by him in quantities sufficient to provide a copy for each teacher required to give the instruction provided for in this section.

336.350 Arbor Day exercises. In the afternoon on the second Friday in April of each year in all counties east of the Cascade Mountains, and on the second Friday in February of each year in all counties west

of the Cascade Mountains, shall hereafter be known throughout this state as Arbor Day. In order that the children in our public schools shall assist in the work of adorning the school grounds with trees and to stimulate the minds of children toward the benefits of the preservation and perpetuation of our forests and the growing of timber, the authorities in every public school district in this state shall assemble the pupils in their charge on the above day in the school building, or elsewhere as they may deem proper and provide for and conduct under the general supervision of city superintendents, county superintendents, teachers and directors, or other school authorities having the general charge and oversight of the public schools in each city or district, such exercises as tend to encourage the planting, protection and preservation of trees and shrubs and an acquaintance with the best methods to be adopted to accomplish such results.

336.360 Exercises prescribed. The Superintendent of Public Instruction, under the direction of the State Board of Education, may prescribe from time to time a course of exercises and instructions in the subjects mentioned in ORS 336.350, which shall be adopted and observed by the public school authorities on Arbor Day.

336.370 Frances E. Willard Day exercises. Such portion of the afternoon of the fourth Friday in October of each year, as deemed proper by the teacher in charge of any public school, is set apart for instruction and appropriate exercises in commemoration of the life, history and achievements of Frances E. Willard. The day shall be known and is designated as Frances E. Willard Day. All public school officials and public school teachers shall carry out the provisions of this section.

336.380 Dental inspections in districts with more than 25,000 pupils. Every district school board in cities where there are enrolled and in attendance at the public schools therein not less than 25,000 pupils shall have authority to cause dental inspection to be made at least once in each school year of each pupil attending school in such district at the time of such inspection.

336.390 Equipment; quality of work; charges; consent of parents. Any school board covered by ORS 336.380 may furnish necessary instruments and equipment and provide suitable quarters in which either

dental examination or treatment in such district may be made. The dental examination and treatment shall be scientific, sanitary and efficient, and may be furnished by such school board free of expense to the pupils whose parents or guardians are, in the opinion of the board, unable to pay therefor. Any charges made by such school board for the dental examination and treatment shall be fair and reasonable. No pupil shall be required or permitted to receive a dental examination or treatment without the written consent of the parents or guardian of such pupil.

336.400 Report to parents; selection of dentist; certificate of treatment. The result of the dental inspection shall be reported in writing by the persons making the same to the parents or guardian of any pupil requiring dental treatment in the opinion of the person making the inspection. After receiving such report, the parents or guardian of any pupil reported as requiring dental treatment may elect to have the treatment reported as necessary for the pupil's health performed by a dentist of their own choosing. Such dentist must supply the pupil with a certificate attesting that the work was performed in accordance with the inspection provided by the school board, and the certificate shall be made a matter of record by the school board.

336.410 Nonliability for injury from treatment. No school district, or any school director, shall be liable to any pupil, or to the parents or guardian of any pupil, for or on account of any claim of any nature whatsoever for damage on account of any action of any person in connection with dental treatment authorized under ORS 336.380 to 336.400.

336.420 Cooperation and sharing expense. Any school board covered by ORS 336.380 may cooperate with and share the expense of dental inspection and treatment with any other organization or individuals.

336.430 Unauthorized soliciting of pupils prohibited. No person shall solicit, receive or permit to be solicited or received from pupils enrolled in public schools, on any public school premises any subscription, donation of money or other thing of value for presentation of testimonials to school officials or for any purpose except such as are authorized by the district school board.

336.440 Secret societies in public schools prohibited; school board duty. (1) Secret societies of every kind and character, including fraternities and sororities, so called, which exist among the pupils of any public school of this state, including local or county high schools, hereby are declared unlawful.

(2) Each school board within the state shall from time to time examine into the condition of all schools under its charge and suppress all secret societies therein. For this purpose the boards hereby are authorized to suspend or expel from school, in their discretion, all pupils who engage in the organization or maintenance of such societies

(3) This section does not apply to Oregon State College or the state university

336.990 Penalties. (1) Violation of any of the provisions of ORS 336.010, 336.070, 336.080, 336.230 to 336.260, 336.280 to 336.330 or 336.350 to 336.440 is a misdemeanor.

(2) Violation of ORS 336.270 is punishable, upon conviction, by a fine of not less than \$100 nor more than \$500 for the first offense, and not less than \$250 nor more than \$1,000 for any subsequent offense or offenses, or by confinement in the county jail for not less than 30 days nor more than one year.

(3) Each failure by any principal or other person in charge of any public or private school or educational institution, to comply with the provisions of ORS 336.340 is punishable, upon conviction, by a fine of not less than \$5 nor more than \$20.

