Chapter 342

1957 REPLACEMENT PART

Teachers and Other School Employes

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CERTIFICATION

342.005 Classes of certificates; fees. (1) The following types of teachers' certificates shall be granted by the authority of the State of Oregon, subject to the provisions of ORS 342.005 to 342.045, 342.060 to 342.075, 342.085 to 342.100 and 342.602, and the rules and regulations of the State Board of Education drawn in conformity with said provisions:

(a) One-year elementary state certificates.

(b) One-year secondary state certificates.

(c) Five-year elementary state certificates.

(d) Five-year secondary state certificates.

(e) Special one-year certificates.

(f) Special five-year certificates.

(g) Emergency certificates.

(2) The Superintendent of Public Instruction shall collect a fee of $5 for each original certificate or renewal thereof issued by him, and $1 for each duplicate certificate. All fees so collected shall be paid into the General Fund of the State Treasury. [Amended by 1955 c.518 §1]

342.007 Expiration date of certificates. Certificates issued after July 21, 1953, under authority of ORS 342.005 to teachers and other persons, shall expire on June 30 regardless of the issue date of the certificate. Certificates issued for a term not exceeding one year shall expire on the June 30 next following the issue date. The period from the issue date to the first June 30 after the issue date shall be considered a full year for the purposes of this section in determination of the expiration date of certificates issued for a term exceeding one year. [1953 c.85 §1]

342.010 Authority of State Board of Education. The State Board of Education shall have authority to make such rules and regulations, in conformity with ORS 342.005 to 342.045, 342.060 to 342.075, 342.085 to 342.100 and 342.602, as may be deemed necessary for implementation thereof.

342.015 Certificate issue. Except those provided for in ORS 342.055, all certificates authorized by virtue of ORS 342.005 for teachers and other persons shall be issued by the Superintendent of Public Instruction.

342.020 Existing certificates not invalidated. Nothing in ORS 342.005 to 342.045, 342.060 to 342.075 and 342.085 to 342.100 shall be construed to invalidate the life of any certificate or diploma in full force and effect in this state on February 25, 1943, nor to invalidate the rights and privileges granted prior to February 25, 1943, by the law under which such certificate or diploma was issued. The Superintendent of Public Instruction shall make such rules and regulations as are necessary to implement this section.

342.025 One-year elementary state certificates. One-year elementary state certificates authorizing persons to teach in any elementary school or junior high school in this state shall be issued on application to otherwise qualified persons who have completed a three-year standard elementary teacher training course, or its equivalent as determined by the Superintendent of Public Instruction. After July 1, 1955, one-year elementary state certificates authorizing persons to teach in any elementary school or junior high school in this state shall be issued on application to otherwise qualified persons who have completed a four-year standard elementary teacher training course, or its equivalent as determined by the Superintendent of Public Instruction.

342.030 One-year secondary state certificates. One-year secondary state certificates authorizing teachers to teach in any junior high school or high school shall be issued on application to such otherwise qualified persons as have completed a five-year standard secondary teacher training course, or its equivalent as determined by the Superintendent of Public Instruction.

342.035 Renewals and conversions of one-year certificates. Any one-year elementary or secondary state certificate may be renewed, or converted into a five-year certificate and renewal thereof under conditions stipulated by the State Board of Education.

342.040 One-year and five-year special certificates. The State Board of Education shall determine the uses of and the requirements for one-year and five-year special certificates and renewals thereof. These shall include exchange teacher certificates, certificates for teachers of the handicapped, kindergarten certificates, vocational certificates, certificates for teachers of adults, administrative certificates, and such other special types of certificates not otherwise provided for by law.

342.045 Emergency certificates. Emergency certificates, valid for a period not to exceed one year, to teach in the elementary schools, junior high schools or high schools may be issued by the Superintendent of Public Instruction when the State Board of Education has declared that an emergency exists because of an acute shortage in the supply of regularly certificated teachers. The Superintendent of Public Instruction shall determine the fitness of any person to qualify for an emergency certificate on the basis of rules and regulations approved by the State Board of Education.

342.050 Special adult education teaching certificates. The Superintendent of Public Instruction, under rules and regulations adopted by the State Board of Education, may, upon receipt of a fee of $5, issue a special certificate, without an examination, to teach in adult education classes of elementary or high school grade and in elementary or high school subject matter. These certificates shall entitle the holder thereof to teach the subjects therein named for one year in such adult education classes, unless revoked for cause. [Amended by 1955 c.518 §2]

342.055 Certificates by districts with more than 100,000 population. The school board in districts having more than 100,000 population may create a board of examiners for the purpose of examining all persons who may be employed to teach in the district schools. The county school superintendent of the county in which the district is located shall be ex officio chairman, and the city superintendent shall also be a member. Certificates issued by such board of examiners shall not be valid in any district other than that for which such certificates are issued. The holder of a valid certificate may be employed without further examination at the option of the board.

342.060 Qualifications for teacher's certificate. (1) No teacher's certificate shall be issued to any person until he has attained the age of 18 years and has furnished satisfactory evidence of proper educational training and that he is either an American citizen or has filed his declaration of intention to become an American citizen, except for foreign teachers teaching on an exchange basis. All teachers except foreign teachers teaching on an exchange basis shall be American citizens or shall have filed a declaration of intention to become an American citizen within seven years next preceding the date of certification. Any alien teacher failing to obtain American citizenship within seven years from the date of filing his declaration of intention to become an American citizen shall forfeit his teacher's certificate and shall be ineligible for further certification until American citizenship is obtained.

(2) The Superintendent of Public Instruction may also require an applicant for any teacher's certificate to furnish satisfactory evidence of good moral character, mental and physical health, and such other evidence as he may deem necessary to establish the applicant's fitness to serve as a teacher.

(3) Without limiting the powers of the Superintendent of Public Instruction to refuse to issue a teacher's certificate under subsection (2) of this section, no teacher's certificate shall be issued to any person who after August 20, 1957, has been convicted of:

(a) A violation of any law of any state or any municipal ordinance involving any sexual offense defined or referred to in ORS 163.210, 163.220, 163.270, 167.005, 167.015, 167.020, 167.025, 167.030, 167.035, 167.040, 167.045, 167.105, 167.115, 167.120, 167.125, 167.130, 167.135, 167.145, 167.150, 167.165, 167.210, 167.230, 167.240; or

(b) A violation of any law of any state or of the United States or any municipal ordinance involving the illegal use, sale or possession of narcotics. [Amended by 1957 c.638 §1]

342.065 [Amended by 1955 c.101 §1; renumbered 342.602]

342.070 Revocation of certificate of teacher or administrator; reinstatement. (1) After the defendant has had an opportunity to be heard, any certificate referred to in ORS 342.005 or 342.105 may be revoked by the Superintendent of Public Instruction upon a written complaint by or through any county school superintendent, for immorality, intemperance, crime against the law of the state, gross neglect of duty or any gross unfitness. Any person whose certificate has been revoked under subsection (1) or (3) of this section may apply to the Superintendent of Public Instruction for reinstatement of his certificate after one year from the date of such revocation.

(2) Without limiting the powers of the Superintendent of Public Instruction to revoke a certificate under subsection (1) of

this section, the Superintendent of Public Instruction shall revoke any certificate referred to in ORS 342.005 or 342.105 when the holder after August 20, 1957, has been convicted of:

(a) A violation of any law of any state or any municipal ordinance involving any sexual offense defined or referred to in ORS 163.210, 163.220, 163.270, 167.005, 167.015, 167.020, 167.025, 167.030, 167.035, 167.040, 167.045, 167.105, 167.115, 167.120, 167.125, 167.130, 167.135, 167.145, 167.150, 167.165, 167.210, 167.230, 167.240; or

(b) A violation of any law of any state or of the United States or any municipal ordinance involving the illegal use, sale or possession of narcotics.

Certificates revoked under this subsection shall not be subject to reinstatement.

(3) The Superintendent of Public Instruction may revoke any certificate referred to in ORS 342.005 or 342.105 upon evidence that the holder knowingly made any false statement in the application for the certificate. [Amended by 1957 c.638 §2]

342.075 Appeal after revocation. Any teacher whose certificate to teach has been revoked under ORS 342.070 or who has been refused reinstatement, and feels aggrieved at such action, shall have the right to appeal from such decision to the State Board of Education. The appeal shall be filed within a period of 30 days from the date of notification of the decision of the Superintendent of Public Instruction. An appeal made under this section in a proceeding to revoke shall operate as a stay of such revocation until the next meeting of the State Board of Education.

342.080 Kindergarten teachers and supervisors to hold certificates. Kindergarten teachers and supervisors employed by any district school board shall hold kindergarten certificates issued by the Superintendent of Public Instruction.

342.085 Effect of employing unqualified teacher. Any school district which employs any teacher not qualified as provided in ORS 342.005 to 342.100 and 342.602 shall forfeit any state or county school funds due such district for the current year during which a non-certified teacher is employed, to the extent of the total salary paid to such non-certified teacher. [Amended by 1955 c.214 §1]

342.090 Qualifications of teacher training institutions. The qualifications of a standard teacher training institution shall be determined by the State Board of Education.

342.095 Elementary teacher training courses. A standard elementary teacher training course shall be given only by a standard normal school, standard teachers college, standard college or university approved for elementary teacher training by the State Board of Education and which meets the requirements of the State Board of Education.

342.100 Secondary teacher training courses. A standard secondary teacher training course shall be given only by a standard college, university or teachers college, and shall meet the requirements set forth by the State Board of Education.

342.105 Qualifications for administrative and supervisory certificates. The State Board of Education shall prescribe reasonable rules and regulations defining minimum qualifications, as to training and experience, for all persons performing administrative or supervisory duties for school districts. The State Board of Education shall issue certificates in the various categories of school administration and supervision to applicants therefor who have complied with such minimum qualifications.

342.110 Temporary administrative certificates. The State Board of Education may issue temporary administrative certificates effective for one year only to applicants therefor who have not complied with the minimum qualifications prescribed by the board. Such temporary certificates shall not be renewable more than four times and shall be issued only to persons holding a bachelor's degree from an institution of higher education, an Oregon teaching certificate for the level the applicant would administer and having two years of teaching or administrative experience at such level.

342.115 Administrative certificate required. After July 1, 1952, no person shall engage in administrative or supervisory duties for school districts unless he holds an appropriate administrative certificate issued by the State Board of Education. Persons engaged in such administrative or supervisory duties on August 2, 1951, may continue in such capacities until July 1, 1956, without certification.

342.120 to 342.200 [Reserved for expansion]

TEACHERS' TENURE

342.205 ORS 342.205 to 342.330 as Teachers' Tenure Law. ORS 342.205 to 342.330 shall be known as the Teachers' Tenure Law.

342.210 Definitions. As used in ORS 342.205 to 342.330:

(1) "Teacher" or "teachers" includes all supervisors, principals, vice principals, directors of departments and instructors employed by any school district to which the Teachers' Tenure Law is applicable.

(2) "Permanent teachers" includes all teachers who have been regularly appointed and employed by any such school district for not less than three successive school years, or who may, after June 12, 1935, be placed upon the permanent list by resolutions of the school board.

(3) "Probationary teachers" includes all teachers, other than substitute teachers and temporary teachers, regularly appointed and employed by the school board during a probationary period of three successive school years and until placed upon the permanently employed list.

(4) "Substitute teachers" are teachers who are employed to take the place of probationary or permanent teachers who are temporarily absent by reason of illness or other authorized absence.

(5) "Temporary teachers" are teachers who are employed to fill positions designated as temporary or experimental or to fill vacancies which occur after the opening of school because of unanticipated enrollments or because of the death, disability, retirement, resignation or dismissal of permanent teachers or probationary teachers. [Amended by 1955 c.281 §1]

342.215 [Repealed by 1957 c.591 §1]

Note: The repeal of ORS 342.215 is effective on September 1, 1958. Until September 1, 1958, ORS 342.215 as compiled in the 1955 Replacement Part (replaced in 1957) will remain in effect

342.216 Application of Teachers' Tenure Law. (1) Whenever the average daily attendance of any school district shall exceed 4,500 students, the provisions of ORS 342.205 to 342.330 shall become effective in the district at the commencement of the next succeeding school year provided that the provisions of ORS 342.205 to 342.330 shall continue to apply in any district where tenure has been put into effect prior to September 1, 1958.

(2) Teachers who have been employed by such school district at least 75 percent of the number of days that the regular schools of such district have been maintained during the three school years immediately preceding September 1, 1958, and are re-employed for the school year commencing with September 1, 1958, shall be classified as permanent teachers.

(3) Teachers who have been employed by the school district at least 75 percent of the number of days that the regular schools of the district have been maintained for less than the three school years immediately preceding September 1, 1958, and are reemployed for the school year commencing with September 1, 1958, shall enjoy the rights of probationary teachers for the number of immediately preceding school years which they have completed. [1957 c.590 §2]

Note: The above section first becomes effective on September 1, 1958.

342.220 Authority of board to employ, remove, transfer, classify and fix salaries of teachers. The district school board of any school district in which the Teachers' Tenure Law is applicable may appoint, employ, classify and fix the compensation of all teachers employed, or to be employed, by said district; and, in the manner provided in ORS 342.230 to 342.330, and in that manner only, may appoint, employ, retire, dismiss, remove, transfer or demote any such teacher. [Amended by 1957 c.591 §2]

Note: The 1957 amendments to ORS 342.220, 342.225 and 342.230 take effect on September 1, 1958. Until September 1, 1958, those sections as compiled in the 1955 Replacement Part (replaced in 1957) will remain in effect.

342.225 Teacher classification. The district school board of any school district in which the Teachers' Tenure Law is applicable shall classify its teachers as follows:

(1) Administrative and supervisory employes, exclusive of superintendents of schools, deputy superintendents of schools and assistant superintendents of schools.

(2) Secondary school teachers.

(3) Elementary school teachers.

(4) Special teachers.

[Amended by 1957 c.591 §3]

Note: See note for ORS 342.220.

342.230 Probationary teachers; discharge, transfer or demotion. (1) The district school board of any school district in which the Teachers' Tenure Law is applicable may discharge or remove any probationary teacher in its employ, at any time during this probationary period for any cause deemed sufficient by the board.

(2) Transfer or demotion of any probationary teacher may be made at any time by the board when deemed for the good of the service, but in the event of friction between any such teacher and his principal, the board shall grant the teacher the privilege of serving under another principal before taking any formal adverse action.

(3) The board may, when it deems such action for the good of the service, refuse to renew the contract of any probationary teacher, or re-employ any such teacher when not under contract, but such teacher shall be entitled to at least 10 weeks' notice of the intended board action before expiration of his contract or before the end of the school year, whichever occurs earlier. [Amended by 1957 c.591 §4]

Note: See note for ORS 342.220.

342.235 Probationary teachers; placing on permanent list. Probationary teachers who have been employed in the schools in any school district or districts having at least 20,000 population as regularly appointed teachers for not less than three successive annual terms, if retained, shall be placed by the district school board upon the list of permanently employed teachers after the board, upon consideration of records and ratings to be regularly and periodically made to the board, is satisfied as to qualifications and adopts a resolution transferring such teacher from the probationary list to the permanently employed list.

342.240 Probationary teachers in armed services. Probationary teachers who have entered any of the armed services of the United States, whether by voluntary enlistment or by conscription, shall accumulate teaching credit as probationary teachers during such term of service to the same extent as if actually present and performing the duties of a probationary teacher, but no such teacher shall be placed upon the permanently employed list until he has served as a probationary teacher for not less than two successive school semesters after honorable discharge from the armed service.

342.245 Permanent teachers not subject to annual appointment; temporary suspension. Permanent teachers shall not be subjected to the requirement of annual appointment, but shall continue to serve until retired, dismissed or discharged as provided in ORS 342.265 to 342.330 except that such teachers shall at all times be subject to temporary suspension under such reasonable rules and regulations as may be prescribed by the board.

342.250 Transfer of permanent teachers. The school board may transfer any permanent teacher from his position in any branch of the service, as classified in ORS 342.225, to another position in the same branch of the service but no such teacher who has served three years or more in a position in the branch of the service classified as "administrative and supervisory employes" or who has served two years or more in a position in any other branch of the service shall be transferred from such position to a lower paying position or to another branch of the service without his consent or without a hearing as provided in ORS 342.275 to 342.330. No such transfer shall operate to remove a teacher from the list of permanently employed teachers or to reduce a teacher's placement in the salary schedule in terms of training or experience. [Amended by 1957 c.211 §1]

342.252 Substitute and temporary teachers. Substitute teachers and temporary teachers shall not be subject to the provisions of ORS 342.230 to 342.330 or 342.635. [1955 c.281 §3]

342.255 Filing complaints against teacher. All charges or complaints against a teacher must be reduced to writing, signed by the complainants and filed in the office of the district superintendent of schools. All such complaints shall remain open to inspection by the teacher concerned.

342.260 Record of complaints concerning teacher. There shall be maintained in the office of the district superintendent a record of complaints, commendations and criticisms that have been made from time to time as to each teacher, the teacher's denials or explanations relating thereto and any suggestions for correction and improvement made to such teacher by the administration. Upon any hearing provided for in ORS 342.250 to 342.330, such record shall be taken into con-

sideration by the board along with other evidence in the case.

342.265 Causes for dismissal of permanent teacher. No permanent teacher shall be dismissed except for inefficiency, unbecoming conduct, insubordination, neglect of duty or failure to comply with such reasonable requirements of the school board as may be prescribed to show normal improvement and evidence of professional training and growth.

342.270 Recommendation of superintendent for dismissal, transfer or demotion of teacher; effect of charges filed by 10 or more families. (1) Recommendations by the district superintendent for dismissal, transfer or demotion of a teacher must be in writing, and filed with the district school board not later than 10 weeks before the end of the school year. The recommendations shall disclose whether made upon the superintendent's own motion, or as the result of written charges or complaints on file in his office, and shall set forth the grounds or charges upon which the recommendations are based.

(2) If the superintendent, after written charges against a teacher have been filed in his office by not less than 10 persons representing not less than 10 different families, refuses or fails to bring them to the attention of the board and make recommendations in the matter, the persons filing such charges may, after due notice to the superintendent, present such charges or complaints to the board, and the board shall proceed to dispose of them in the same manner as if such charges had been presented by the superintendent.

342.275 Board action after filing of superintendent's recommendation for dismissal, transfer or demotion. When recommendations for dismissal, transfer or demotion of a permanent teacher are filed, the district school board shall, within five days from the date of receipt of same and before any formal action is taken thereon, notify the teacher concerned, in writing, and inclose a copy of the recommendations and a statement of charges upon which they are based. If the teacher is unwilling to abide by such recommendations, he shall, within five days from the date of receipt of such notice, so notify the board. In such case, the board shall set a time and place for a hearing and the teacher concerned shall be given at least 10 days' notice as to such time and place.

342.280 Conduct of hearings. The hearing shall be private unless the teacher requests a public hearing. Minors shall not be permitted to attend such hearing except as witnesses duly subpenaed to testify with respect to charges. The proceedings shall be governed by such reasonable rules and regulations as may be prescribed by the board, preserving to the teacher and the board the right to employ counsel and present evidence and argument. The evidence on both sides shall be confined to the formal charges made.

342.285 Copy of charges for teacher. In advance of the hearing provided for in ORS 342.275, the teacher concerned shall be provided with copies of any and all written charges or complaints against him on file in the superintendent's office.

342.290 Witnesses. (1) Upon the teacher's request all complainants having filed written charges or complaints shall be subpenaed by and at the expense of the district school board, in order that they may be subjected to examination, at the hearing by the teacher or his attorney. Subpenas for witnesses to testify either in support of the charges or on behalf of the teacher shall, as requested, be issued in blank by the board over the signature of its chairman or clerk, 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, but the board shall not be accountable for the witness fees of more than 10 such witnesses so subpenaed on behalf of the teacher.

(2) Witnesses so subpenaed shall be compelled to appear and submit to examination and shall be subject to the same penalties for perjury or contempt, respectively, as are provided in ORS 33.020 and 162.120. All witnesses shall testify under oath or affirmation to be administered by any board member or clerk of the board.

342.295 Decision on evidence only. At the conclusion of the hearing provided for in ORS 342.275 the board shall render its decision on the evidence submitted at such hearing and not otherwise.

342.300 Findings and order; report of proceedings. The findings and order of the board shall be in writing and a copy shall be served upon the teacher concerned. The board shall employ a competent person to report the full proceedings, which record

shall be available, without charge, for the use of the teacher in the event he wishes to apply to the courts for a writ of review or to appeal to the teachers' tenure commission, but no transcript of the testimony taken before the board need be supplied if the teacher demands that the case be heard de novo on appeal.

342.305 Dismissal of charges; appeal procedure. Unless approved or upheld by a majority of the members of the board, the recommendations or charges shall be dismissed. Unless the recommendations or charges are approved or upheld by all members of the board, the teacher shall have 10 days in which to appeal to the teachers' tenure commission. If the teacher concerned applies to the courts for a writ of review, such action shall operate as a waiver of the teacher's right to appeal to the commission. An appeal to the commission may be taken by filing notice thereof with the clerk of the school board, which notice shall state whether such appeal is to be heard de novo or upon the record made before the board.

342.310 Teachers' tenure commission; appointment; term and compensation. On the first Tuesday after the first Monday in January in each year, there shall be appointed in each school district in the state having 20,000 or more persons, three competent and disinterested citizens of the United States, residents of the State of Oregon and county in which the district is located, to act as a teachers' tenure commission. The Superintendent of Public Instruction, the Chief Justice of the Supreme Court and the chairman of the State Board of Higher Education shall each appoint one such commissioner. Each member of the commission shall serve without pay, for one year and until his successor is appointed and qualifies. The appointments and acceptance thereof shall be in writing, and copies shall be filed by the Superintendent of Public Instruction in the office of the clerk of the school district concerned.

342.315 Commission organization; vacancies. The teachers' tenure commission shall, immediately after notification that an appeal has been taken, meet and organize through the selection of a chairman and a secretary. The secretary need not be a member of the commission but shall serve without pay. In case of a vacancy in the office of any commissioner the officer who appointed such commissioner originally shall fill the vacancy by appointment, and the appointee shall serve for the unexpired term of his predecessor.

342.320 Commission powers and duties; expenses; decisions and orders. The teachers' tenure commission shall formulate rules of procedure which shall govern its proceedings. In case of an appeal from an order or decision of a school board, it may determine the matter on a review of the record, as certified by the clerk of the school board, or in the event that three directors of a board of seven or two directors of a board of five dissented from the decision of the school board, the commission may, upon demand of the teacher concerned, hear the matter de novo, and to this end shall have power to subpena and swear witnesses and receive and consider competent evidence and perform such other acts as will enable it to render a just judgment in the case. The necessary and actual expenses of the commission shall be paid by the school district concerned, and upon itemized vouchers approved by the commission. The decision of a majority of any such commission shall stand as the decision and order of the commission. The decisions or orders shall be in writing, filed with the clerk of the school board concerned, and spread upon the minutes of said board.

342.325 Rights of teachers in merged districts. Whenever any school district is merged into any other district of the same or a different class, the teachers in the district that loses its identity through such merger shall enjoy the rights of probationary teachers who have completed one year's service in the enlarged district.

342.330 Compulsory retirement. (1) Except as provided in subsection (2) of this section, notwithstanding the provisions of ORS 342.205 to 342.325, a teacher shall be retired on July 1 next following the date on which he reaches the age of 65.

(2) Upon written recommendation of the administrative head of his employer that continued service on the teacher's part is in the public interest and upon approval of the district school board, a teacher may be continued in service for successive periods of one year each after reaching the compulsory retirement age. [Amended by 1953 c.638 §2]

342.335 to 342.500 [Reserved for expansion]

GENERAL PROVISIONS

342.505 Hiring of teachers. (1) Except as provided in subsection (4) of this section, the district school board, at a general or special meeting called for that purpose, shall hire teachers and shall make contracts with such teachers which shall specify the wages, number of months to be taught and time employment is to begin, as agreed upon by the parties, and shall file such contracts in the office of the district clerk.

(2) Unless otherwise provided in the teacher's contract, it shall be understood that the branches provided for in the state course for the first eight grades shall be taught.

(3) Except as provided in subsection (4) of this section, when a teacher is hired at a regular meeting and such action is spread upon the minutes, any contract signed afterward in conformity therewith by the chairman, clerk and teacher shall be binding upon all parties.

(4) No hiring or written contract of any teacher is valid unless the teacher, on or before the date employment is to begin, holds a certificate issued in accordance with ORS 342.005 to 342.100 and 342.602, and the certificate has been registered in accordance with ORS 342.600. [Amended by 1955 c.219 §1]

342.508 Contracts in districts not subject to Teachers' Tenure Law but having average daily membership over 800 pupils. (1) In any school district which is not subject to the provisions of ORS 342.205 to 342.330 but which has an average daily membership in excess of 800 pupils, a teacher or administrator who has been regularly appointed and employed by the school district for the last preceding three successive school years shall be issued by March 15 of the third year a three-year contract if the school board determines to rehire the teacher or administrator. If the school board determines to rehire the teacher or administrator at the termination of any three-year contract made pursuant to this section, the contract shall be renewed by March 15 of the year of termination for an additional three-year period.

(2) Each district school board of the school districts referred to in subsection (1) of this section shall give notice in writing, by March 15 of the year the contract with the teacher or administrator described in subsection (1) of this section terminates, to the teacher or administrator of his election for a three-year period or of his dismissal. If dismissed, the notice of dismissal and the reasons therefor shall be given in the same manner as prescribed by ORS 342.635. If the school board fails to give such notice by March 15 of election for a three-year period or dismissal, the teacher or administrator, if he notifies the board by April 1 of his acceptance of the position for the following school year, shall be deemed elected for the following school year at a salary not less than the annual salary he is then receiving. The teacher or administrator may bring an action of mandamus to compel the school board to issue such a one-year contract for the following year.

(3) When a school district covered under subsection (1) of this section consolidates with one or more other school districts or annexes one or more school districts or other territory and if the newly consolidated or enlarged school district is not subject to the provisions of ORS 342.205 to 342.330, the teachers or administrators covered under subsection (1) of this section prior to the consolidation or annexation shall continue to be covered as if there had been no consolidation or annexation. All other teachers or administrators employed by the newly consolidated or enlarged school district shall be entitled to count their prior continuous service, but not for any year beyond the last preceding two years, as a public school teacher or administrator in the territory of the newly consolidated or enlarged school district toward satisfying the three-year requirement under subsection (1) of this section.

(4) Nothing in this section shall prevent a school board from contracting with a teacher or administrator described in subsection (1) of this section for a shorter period than three years if the teacher or administrator so requests. [1957 c.446 §1]

342.510 Interchange of teachers. A district school board may provide for the interchange of teachers with school districts of other states or countries. Teachers exchanged shall teach but one year, the year's service outside the state being credited to them as teaching in the district in which they are regularly employed when the interchange is made. The salary of the Oregon teacher shall be paid by the Oregon school district and the salaries of the teachers outside of Ore-

gon exchanged to teach in this state shall be paid by the school districts in their respective states or countries.

342.515 Employment of relatives as teachers. No contract shall be made with any teacher who is related by blood or marriage within the third degree to any member of the school board without the concurrence of all the board members, by a vote duly entered on the clerk's records of proceedings.

342.520 Sex discrimination forbidden. In the employment of public school teachers, district school boards shall not discriminate between male and female teachers, and for the same and like service shall pay female teachers the same or like compensation paid to male teachers, taking into consideration the years of successful teaching experience in the districts where the teachers are employed.

342.525 Contracts with teachers for return of part of salary prohibited. No district shall enter into a contract with any teacher whereby the teacher shall return to the district either directly or indirectly any part of the county school tax, or the Common School Fund apportioned to the district. If any board and teacher enter into such contract, the contract shall be void in whole, and the teacher's certificate shall be revoked by the State Board of Education.

342.530 Dismissal of teachers. The district school board shall dismiss teachers only for good cause shown. In case the board passes an order to dismiss, the material reason therefor shall be spread upon the record by the district clerk.

342.535 Appeal from dismissal. If a teacher is unjustly dismissed, he may take an appeal from the action of the board in dismissing him to the county superintendent and thence to the Superintendent of Public Instruction, but for a breach of contract of teaching the teacher or the district shall have their ordinary legal remedies.

342.540 Teacher's right to notice, hearing and counsel. In the trial of a teacher, when it is sought to dismiss him under ORS 342.530 and 342.535, the board, the county superintendent or the Superintendent of Public Instruction, as the case may be, shall give the teacher due and legal notice of the charges against him and an opportunity to be heard in his own defense in person or by attorney.

342.545 [Reserved for expansion]

342.550 Payment of school employes; payment for contracted services. The district school board may authorize the chairman and clerk to draw warrants for the payment of the salaries of teachers, clerks, stenographers, janitors, cooks, bus drivers and other regularly contracted services at the end of each school month, upon proper evidence that the service has been performed; provided that all teachers must hold legal certificates which must cover the entire time of the teacher's service and must specify all the branches taught. Such certificate can neither directly or indirectly be made to legalize another teacher's services.

342.555 Payment for teacher's last month of employment. (1) A district school board shall not pay the teacher's salary for the last month of employment until the register has been submitted to the chairman of the board, the chairman has found it properly kept and has entered a certificate to that effect upon the register.

(2) The clerk shall refuse to draw an order for the teacher's wages for the last month until the teacher's register, copy of program, classification of pupils, where each class began and closed in the state course of study and such other data as may be required by the State Board of Education or the county superintendent, have been examined, approved by the clerk and filed in his office.

342.560 "Training school" defined for ORS 342.560 to 342.575. As used in ORS 342.560 to 342.575, "training school" means a school in which the pupils are taught either wholly or in part by students of a:

(1) State normal school.

(2) Standard teacher training institution approved by the State Board of Education under ORS 342.090 to 342.100. [Amended by 1955 c.618 §1]

342.565 Public schools as training schools. Any district school board may at its discretion authorize the use of all or any part of the public schools under its jurisdiction for training school purposes, and for this purpose may enter into a contract with the Department of Higher Education upon such terms as may be mutually agreed upon.

342.570 Where training school may be taught. When a public school is used for training school purposes, it may be taught in a building not situated on the school site provided by law for such public school. The site upon which such building stands shall, during such time, be deemed the legal school site for such school.

342.575 Student teacher; authority to teach; contract requirements and effect. (1) Any student of a state normal school, or of a standard teacher training institution approved by the State Board of Education under ORS 342.090 to 342.100, who is assigned to teach in a training school hereby is vested with full authority to teach during the time such student is so assigned, and such assignment shall have the same effect in all respects as if such student were the holder of a valid teacher's certificate.

(2) Any contract entered into by the district school board and the Department of Higher Education shall in all other respects have the same effect and be subject to the same requirements as a contract between a teacher and a school district board. [Amended by 1955 c.618 §2]

342.580 General duties of teacher. When in charge of a school or class, as applicable, a teacher shall:

(1) Maintain order and conduct himself before the pupils in such a manner as to command their respect.

(2) Except when a different or lesser number of hours has been ordered by the district school board, commence school at 9 a.m. and close at 4 p.m. daily with one hour for recreation at noon.

(3) Labor during school hours to advance pupils in their studies and to create in their minds a desire for knowledge, principle, morality, politeness, cleanliness and the preservation of physical health.

(4) Give vigilant attention to schoolroom temperature and ventilation, and see that both are maintained at proper levels.

(5) Encourage healthful play at recess and strictly prohibit all dangerous or immoral games and amusements.

(6) Follow the prescribed course of study.

342.585 Teacher's register. Teachers shall keep a register showing the names, sex and daily attendance of all pupils attending their classes, copies of their programs, classification of their pupils, the point in the state course of study where each class began and closed and such other data as the State Board of Education may require. The teacher shall file the register with the district school clerk at the end of the school term; or, if he leaves before the end of the school term, at the time of leaving.

342.590 Final report of teacher. Each teacher leaving a school before the close of the school year shall, at the time of leaving, submit a school report to the county school superintendent for all that portion of the school year from the beginning thereof to the time of the teacher's leaving. The teacher shall file a duplicate of this report with the district school clerk at the time the register is surrendered.

342.595 Sick leave for teachers. (1) As used in this section:

(a) "Sick leave" means absence from duty because of a teacher's illness or injury.

(b) "Teacher" includes any person for whom a certificate is required as a basis for employment in a public school.

(2) Each school district shall allow each teacher at least 10 days' sick leave at full pay during each school year.

(3) At the option of the district school board, sick leave in excess of five consecutive school days shall be allowed only upon certificate of the teacher's attending physician or practitioner that illness or injury prevents the teacher from working.

(4) Sick leave not taken shall accumulate. Unless the district school board authorizes a greater number, no teacher is entitled to more than 50 days of accumulated sick leave with pay. A district school board is not required to permit a teacher to take sick leave accumulated in another district. [Amended by 1953 c.392 §2]

342.596 Sick leave for other school employes. (1) As used in this section:

(a) "School employe" includes all permanent, full-time employes of a public school district except employes covered by ORS 342.595.

(b) "Sick leave" means absence from duty because of a school employe's illness or injury.

(2) Each school district shall allow each school employe at least 10 days' sick leave at full pay for each year.

(3) At the option of the district school board, sick leave in excess of five consecu-

tive work days shall be allowed only upon certificate of the school employe's attending physician or practitioner that the illness or injury prevents the school employe from working.

(4) Sick leave not taken shall accumulate. Unless the district school board authorizes a greater number, no school employe is entitled to more than 50 days of accumulated sick leave with pay. A district school board is not required to permit a school employe to take sick leave accumulated in another district.

(5) This section does not apply to employes who are covered by ORS 242.310 to 242.640. [1957 c.457 §1]

342.600 Registration of teacher's certificate, contracts and health certificate. (1) Each school year the county school superintendent shall require teachers before beginning to teach in any school district in his county to register in his office their certificate or permit, their contracts and their health certificates.

(2) If any teacher fails so to register his teaching certificate or permit, contract or health certificate, as required by subsection (1) of this section, in the office of the county school superintendent before beginning to teach in any district in his county, the teacher shall forfeit to the school district the full amount of salary for the time taught before the teaching certificate, permit, contract and health certificate are so registered.

(3) The county school superintendent shall notify the district clerk of the amount of such forfeiture and shall deduct the amount of the forfeiture from the next apportionment due the school district. The requirements of this section shall be enforced only by the county school superintendent of the county in which is situated the school building in which the teacher is employed. [Amended by 1955 c.101 §2]

342.602 Registration of school employe's health certificate. (1) No person shall be employed by any school or school district in any capacity that involves contact with school children or the handling or preparation of food for school children until he has registered, for the school year in which it is to be used, a certificate of health showing that he is free from communicable tuberculosis. The certificate of health shall be a certificate issued by a duly licensed physician and countersigned by the county health officer in the county in which the person is to function as a school employe. The certificate of health shall be registered with the county school superintendent in the county in which the certificate holder is to function as a school employe.

(2) The State Board of Health may adopt and promulgate regulations governing the type of examination to be given to ascertain whether or not such person is free from communicable tuberculosis. The State Department of Education shall furnish the required certificate blanks. [Formerly 342.065]

342.605 Examination of contracts; effect of failure to pay minimum salary. The county school superintendent shall examine the teachers' contracts filed with him as required by ORS 342.600. If he finds that a contract provides for payment of a salary less than the minimum specified in ORS 342.610 for the teacher concerned, he shall forthwith notify the school board in writing to correct the contract so as to conform to the legal requirements. If the board does not make a contract in accordance with ORS 342.610, the county school superintendent shall withhold from the district its proportion of the county school fund for the current year, and the members of the school board signing a contract with anyone to teach for full time in the public school at a salary less than the minimum specified in ORS 342.610 shall be personally liable for the amount set forth in the contract.

342.610 Minimum salary for teachers. (1) No district school board shall pay a certificated teacher having less than a bachelor's degree preparation and teaching in a public school under the jurisdiction of such board a salary of less than $3,400 for a school year of nine and one-half months, or less than a proportionate amount of $3,400 for any period of service less than a school year of nine and one-half months.

(2) No district school board shall pay a certificated teacher having a bachelor's degree and teaching in a public school under the jurisdiction of such board a salary of less than $3,700 for a school year of nine and one-half months, or less than a proportionate amount of $3,700 for any period of service less than a school year of nine and one-half months.

(3) No district school board shall pay a certificated teacher having a master's degree and teaching in a public school under the

jurisdiction of such board a salary of less than $4,000 for a school year of nine and one-half months, or less than a proportionate amount of $4,000 for any period of service less than a school year of nine and one-half months.

(4) The provisions of subsections (1) to (3) of this section do not apply to substitute teachers employed on a day to day basis, except that no such substitute teacher shall be paid less than $18 per day having a bachelor's degree or less, or paid less than $20 per day having a master's degree.

(5) In training schools as defined in ORS 342.560, the aggregate salary of teachers shall not be less than the minimum established, but the district school board and Department of Higher Education may agree on the proportion of the total salary to be paid by each under ORS 342.565. [Amended by 1955 c.130 §1; 1957 c.262 §1]

Note: The 1957 amendments to ORS 342.610 take effect on July 1, 1958. Until July 1, 1958, ORS 342.610 as compiled in the 1955 Replacement Part (replaced in 1957) will remain in effect.

342.615 Oath of allegiance of public school teachers. Any person entering into a contract to teach in the public schools of the state shall, as a part of the contract, subscribe to the following oath or affirmation:

"I solemnly swear, or affirm, that I will support the Constitution of the State of Oregon * * * and the laws enacted thereunder, and that I will teach, by precept and example, respect for the flags of the United States and of the State of Oregon; * * * reverence for law and order and undivided allegiance to the Government of our country, the United States of America."

The oath or affirmation, duly signed, shall be filed in the office of the examiner issuing the certificate and a copy shall be given to the applicant.

342.620 Oath of allegiance of other teachers. With the exception of exchange professors or teachers whose term of service is temporary and who do not become permanent residents of the United States, every teacher employed in a private or parochial school or in any academy, college, university or other institution of learning shall, before entering upon the discharge of his duties, take the same oath or affirmation of allegiance as that prescribed for public school teachers in ORS 342.615. The oath or affirmation shall be taken and subscribed to before some officer authorized by the state to administer oaths. A copy of the oath or affirmation shall be filed with the officer or board in charge of such school or other institution of learning.

342.625 Duty of school authorities concerning oath of allegiance. No person in charge of any public, private or parochial school, or any academy, college, university or other institution of learning shall allow or permit any teacher to enter upon the discharge of his duties, or to give instruction therein unless such teacher has taken and subscribed to the oath or affirmation of allegiance required by ORS 342.615 or 342.620.

342.630 Home teachers. District school boards may employ teachers to be known as "home teachers," not exceeding one such home teacher for every 500 units of average daily attendance in the common schools of the district, as shown by the report of the county school superintendent for the next preceding school year. Home teachers shall work in the homes of the pupils, instructing children and adults in matters relating to school attendance and preparation therefor; also in sanitation, in the English language, in household duties, such as purchase, preparation and use of food and of clothing and in the fundamental principles of the American system of government and the rights and duties of citizenship. The qualifications of home teachers shall be a regular kindergarten, primary, elementary or secondary certificate to teach in the schools of Oregon and special fitness to perform the duties of a home teacher. The salaries of such teachers shall be paid from the district school funds.

342.635 Election or dismissal of teacher or administrator for following year. Each district school board shall give notice in writing by March 15 of each year to all teachers and administrators in their employ of election or dismissal for the following school year. In case the school board passes an order to dismiss, the material reason or reasons therefor shall, at the request of the teacher or administrator, be spread upon the records of the school district by the district clerk who shall furnish a copy of the same to the teacher or administrator. If any school board fails to give such notice by March 15, the teacher or administrator will be deemed to have been elected for the following school year at a salary not less than that he is then

receiving, and may bring an action of mandamus to compel the school board to issue such a contract for the following school year. The provisions of this section shall be noneffective unless teachers or administrators notify the board in writing on or before April 1 of acceptance or rejection of the position for the ensuing school year. [Amended by 1957 c.443 §1]

342.640 Termination of teacher's contract. Sickness or other unavoidable circumstances which prevent the teacher from teaching one month shall be sufficient reason for the termination of the teacher's contract, by either party thereto without penalty. A school board may release a teacher from a contract by mutual agreement. No school board may be required to consider any resignation not in writing.

342.645 Resignation in violation of contract. (1) Any teacher in the public schools and any teacher who has entered into a valid contract to teach in any public school, who willingly violates the terms of his contract for teaching by resigning his position as teacher within 90 days before the time when the term contracted to be taught begins or at any time during the period for which he has contracted to teach, shall have his certificate suspended by the authorities issuing same upon due notice from the school board, and shall be disqualified from teaching in the public schools of this state for the remainder of the school year.

(2) Any teacher whose certificate has been so suspended shall have the right of appeal to the State Board of Education within 20 days following the suspension. The notice of appeal shall be in writing and sent by registered letter, with return receipt requested, to the State Board of Education. The letter shall be served upon the state board no later than one day following the 20 days period. The state board shall set the appeal for hearing on a day fixed by it at the earliest possible date therefor and shall notify the parties concerned. The decision of the state board shall be final.

(3) The State Board of Education shall adopt rules and regulations governing the appeal and hearing procedure. [Amended by 1953 c.36 §2]

342.650 Wearing of garb of religious order prohibited. No teacher in any public school shall wear in said school, and while engaged in the performance of his duty, any dress or garb of any religious order, sect or denomination.

342.655 Action against teacher violating ORS 342.650. Any teacher violating the provisions of ORS 342.650 shall be immediately suspended from employment in the schools of such district, and such teacher's certificate shall be revoked as provided by law.

342.660 Duty of school directors concerning ORS 342.650. (1) The district school board of any public school district employing a teacher who violates ORS 342.650 shall suspend such teacher from employment in the schools of such district and take the necessary action to have such teacher's certificate revoked.

(2) No member of a district school board shall fail to comply with subsection (1) of this section.

342.665 Annual teachers' county institutes. The county school superintendent shall hold annually a teachers' county institute for a term of not less than one day nor more than two days, at the discretion of the county superintendent, for the instruction of teachers and those desiring to teach. All teachers in the public schools of his county, except teachers in districts containing more than 20,000 pupils, shall be required to attend. The Superintendent of Public Instruction may, upon a written complaint of the county superintendent, revoke the certificate, or refuse to grant a certificate to any teacher who refuses to attend the county institute without cause. The county superintendent shall receive the assistance and cooperation of the Superintendent of Public Instruction in holding annual institutes.

342.670 Teachers' benefits for institute attendance. Every teacher attending any annual county institute held in accordance with ORS 342.665 shall be given by the county superintendent a certificate setting forth at what sessions of the institute such teacher was in attendance. Any teacher who closed school for the term of the institute in order to attend shall not forfeit wages as teacher during such time as he was in attendance at the institute. The certificate shall be evidence of such attendance. If the institute is held during the session of school, the directors shall grant the required number of days of actual service to their teachers to attend the institute, during which time their pay as teachers shall continue.

342.675 Local institutes. Each county school superintendent shall organize and hold annually at least three local institutes or educational meetings in various parts of his county at such times and places as he may deem expedient. He shall secure at these meetings, so far as practicable, the attendance and cooperation of school officers, teachers and parents.

342.680 Institute expenses. All claims for defraying the expenses of county and local institutes shall be audited and paid as are all other claims against the county. The total amount paid by any county for each fiscal year shall be $2 for each schoolroom in operation in such county during such year. If in any county this amount does not equal the sum of $150 for each fiscal year then the county court of such county shall appropriate from the general fund of the county for defraying the expenses of such teachers' institutes the sum of $150. The total amounts allowed for claims for such expenses in any county for teachers' institutes shall not exceed $400 for each fiscal year.

342.685 Joint annual institute. Two or more counties may, at the discretion of their respective county school superintendents, unite for the purpose of holding a joint annual institute at such place as may be agreed upon by such superintendents, and all the provisions of ORS 342.665 to 342.680 shall apply to such joint institute.

342.690 to 342.985 [Reserved for expansion]

PENALTIES

342.990 Penalties. (1) Violation of ORS 342.625 is punishable, upon conviction, by a fine of not more than $100.

(2) Violation of subsection (2) of ORS 342.660 is punishable, upon conviction, by a fine of not more than $100, or by imprisonment in the county jail for not more than 60 days, or both.

(3) Violation of ORS 342.050, 342.055, 342.080, 342.205 to 342.330, 342.505 or 342.510 to 342.590 is a misdemeanor.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 2, 1957.

Sam R. Haley
Legislative Counsel