Chapter 339

1969 REPLACEMENT PART

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DEFINITION

339.005 Definition. As used in this chapter, unless the context requires otherwise, "administrative office for the county" means the administrative office of the intermediate education district, of the county school district or of the administrative school district which includes an entire county.
[1965 c.100 §273]

COMPULSORY SCHOOL ATTENDANCE

339.010 School attendance required; age limits. Except as provided in ORS 339.030, all children between the ages of 7 and 18 years who have not completed the 12th grade are required to attend regularly a public full-time school of the school district in which the child resides.
[Amended by 1965 c.100 §274]

339.020 Duty to send children to school. Except as provided in ORS 339.030, every person having control of any child between the ages of 7 and 18 years who has not completed the 12th grade is required to send such child to and maintain such child in regular attendance at a public full-time school during the entire school term.
[Amended by 1965 c.100 §275; 1969 c.160 §1]

339.030 Exemptions from compulsory school attendance. In the following cases, children shall not be required to attend public full-time schools:

(1) Lawfully employed children between the ages of 16 and 18 years who are attending a class or program for employed children under ORS 336.135 for not less than 5 hours per week or 180 hours per year or for an equivalent time unless there is no such class or program in the school district in which the child is employed or in which he resides.

(2) Children being taught in a private or parochial school in the courses of study usually taught in grades 1 through 12 in the public schools and in attendance for a period equivalent to that required of children attending public schools.

(3) Children proving to the satisfaction of the district school board that they have acquired equivalent knowledge to that acquired in the courses of study taught in grades 1 through 12 in the public schools.

(4) Children who are mentally or physically unable to attend school. The attendance supervisor may require a written certificate of a duly licensed physician certifying that the child is mentally or physically unable to attend school.

(5) Children between the ages of 7 and 10 years whose parents live more than one and one-half miles, and children over 10 years of age whose parents live more than three miles, by the nearest traveled road, from some public school and for whom the school district does not provide transportation over the distances specified in this subsection.

(6) Children being taught for a period equivalent to that required of children attending public schools by a parent or private teacher the courses of study usually taught in grades 1 through 12 in the public school.

(a) Before the children are taught by a parent or private teacher, the parent or teacher must receive written permission from the executive officer of the administrative office for the county. The executive officer is authorized to grant permission only in case of necessity. The permission shall not extend beyond the end of the school year in which permission is granted.

(b) Children being taught by a parent or private teacher must be examined in the work covered. If the executive officer of the administrative office determines after examination that the children are not being taught properly, he shall order the person having control of the children to send them to school for the remainder of the school year.

(7) Children excused by the district school board of the district in which the children reside. The district school board has authority to excuse a child from compulsory attendance if the child has completed the first eight grades and if further attendance would be educationally unprofitable for the child or cause hardship in the family of such child.

(8) Children excluded from attendance as provided by law.
[Amended by 1965 c.100 §276; 1967 c.67 §8]

339.040 Attendance supervisors; appointment; compensation. (1) The executive officer of the administrative office for the county shall appoint one person to act as the attendance supervisor for school districts having a school census of less than 1,000 children in the county. The attendance supervisor shall perform his duties under the direction of the administrative office for the

county. The attendance supervisor shall receive as compensation for services a sum fixed by the governing body of the county and allowed and paid in the same manner as the salaries of county officers are paid.

(2) District school boards of districts having a school census of 1,000 or more children, according to the latest school census, shall appoint attendance supervisors and fix and pay their compensation.

(3) The administrative office for the county, upon written application from the district school board in any school district having a school census of more than 200 and less than 1,000 children, according to the latest school census, shall grant such district permission to appoint attendance supervisors and fix their compensation and pay.

(4) For purposes of the appointment and duties of attendance supervisors, the territory in a joint school district shall be considered part of the county in which the administrative office of the joint district is located.

[Amended by 1965 c.100 §277]

339.050 [Amended by 1965 c.100 §278; repealed by 1965 c.136 §1]

339.055 Duties of attendance supervisors. The attendance supervisor when notified of a truancy or unexcused absence shall investigate the truancy or nonattendance at school. If the child is not exempt from compulsory school attendance, the attendance supervisor shall proceed as provided in ORS 339.080 and 339.090.

[Formerly 339.100]

339.060 [Repealed by 1965 c.100 §456]

339.065 Estimates of attendance; irregular attendance; excused absences. (1) In estimating regular attendance for purposes of the compulsory attendance provisions of this chapter, the principal or teacher shall consider all unexcused absences. Eight unexcused one-half day absences in any four-week period during which the school is in session shall be considered irregular attendance.

(2) An absence may be excused by a principal or teacher if the absence is caused by the pupil's sickness, by the sickness of some member of the pupil's family or by an emergency. A principal or teacher may also excuse absences for other reasons where satisfactory arrangements are made in advance of the absence.

(3) Any pupil may be excused from attendance by the district school board for a period not to exceed five days in a term of three months or not to exceed 10 days in any term of at least six months. Any such excuse shall be in writing directed to the principal of the school which the pupil attends.

[1965 c.100 §281]

339.070 [Repealed by 1963 c.544 §52]

339.080 Nonattendance notice to parents and school officials. (1) Except as provided in ORS 339.030, in case any parent or other person in parental relation fails to send any child under his control to the public school, the attendance supervisor, within 24 hours after notification from the proper authority of the failure, shall give formal written notice in person or by registered or certified mail to the parent or other person. The notice shall state that the child must appear at the public school on the next school day following the receipt of the notice. The notice shall inform the parent or other person that regular attendance at school must be maintained during the remainder of the school year.

(2) At the same time notice is given to the parent or other person, the attendance supervisor shall notify the city superintendent or principal, as suitable, of the fact of the notice. The superintendent or principal shall notify the attendance supervisor of any failure on the part of the parent or other person to comply with the notice.

[Amended by 1965 c.100 §282]

339.090 Determination of compliance with notice. The attendance supervisor shall determine whether the parent or other person given written notice of attendance requirements has complied with the notice. If he determines that the parent or other person has failed to comply, the attendance supervisor, within three days after having knowledge of such failure or after being notified thereof, shall make a complaint alleging the parent or other person's refusal or neglect to send the child to school. The complaint shall be made before a court having jurisdiction over misdemeanors committed within the county in which the parent or other person resides. The judge shall issue a warrant upon the complaint and shall proceed to hear and determine the matters alleged in the complaint in the same manner he hears and determines other cases under his jurisdiction.

[Amended by 1965 c.100 §283]

339.100 [Amended by 1963 c.544 §47; 1965 c.100 §279; renumbered 339.055]

339.110 [Repealed by 1965 c.100 §456]

ADMISSION OF PUPILS; TUITION AND FEES

339.115 Admission of pupils. (1) Except as provided in ORS 336.115 authorizing tuition for courses not part of the regular school program, the district school board shall admit free of charge to the schools of the district all persons between the ages of 6 and 21 residing therein. However, a district school board may admit other persons, determine who is not a resident of the district and may fix rates of tuition for nonresidents.

(2) A child entering school for the first time during the fall term shall be considered to be six years of age if his sixth birthday occurs on or before November 15. A child entering school for the first time in a midwinter term, if the school has a beginning first-year class in midwinter, shall be considered to be six years of age if his sixth birthday occurs on or before March 15.

(3) District school boards may provide, by 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 shall be ineligible to enter school for the remainder of the school year or until another beginning first-year class is organized during that school year.
[1965 c.100 §285]

339.120 [Amended by 1957 c.198 §5, repealed by 1965 c.100 §456]

339.125 Admission of nonresident pupils; costs. (1) The district school board may contract with the district school board of any other district for the admission of pupils in schools of the other district. The contract shall be in writing upon forms furnished by the Department of Education. Expense incurred shall be paid out of the school funds of the district sending such pupils. If the district sending the pupils fails to pay the expense so incurred according to the terms of the contract, the administrative office for the county containing such school district, after satisfactory proof of such failure, shall deduct the amount of the unpaid expense from the amount due the school district at the next regular apportionment. The treasurer shall pay the amount of the reduced apportionment out of the county school fund.

(2) In case the school district sending the pupils is a joint district, jurisdiction shall be exercised by the administrative office for the county in which the most populous part of such district is situated, according to the latest school census. The office's action in the matter is final.
[1965 c.100 §286]

339.130 [Amended by 1957 c.198 §6; repealed by 1965 c.100 §456]

339.135 Admission of children living in area under exclusive jurisdiction of Federal Government; effect on distribution of funds; reimbursement. (1) As used in this section, "exclusive jurisdiction" means exclusive legislative jurisdiction as described in Article I, section 8 of the Constitution of the United States.

(2) Children of school age who are living in any area within which the United States Government has exclusive jurisdiction shall be admitted free of charge at adjacent public schools. They may be placed on the school census of the school district in which they attend school. Credit for days' attendance of such children shall accrue to the school attended for the purpose of distributing state school funds.

(3) No more than the difference between the actual per pupil cost of tuition and reasonable costs of transportation per pupil where transportation is furnished by the school district, and the average receipts of the school district per pupil from county, state and federal sources other than the local district tax shall be paid by the state from funds specifically appropriated for the program under this section.

(4) If the amount appropriated for a fiscal year for the program under this section is insufficient to provide full apportionments as provided in subsection (3) of this section, the amount available shall be distributed on a pro rata basis to the claiming districts.
[1965 c.100 §287; 1967 c.507 §6]

339.140 [Repealed by 1965 c.100 §456]

339.145 Admission to adult education program; fees. Persons 18 years of age or older and persons who have graduated from high school may enroll in the adult education program of a school district, subject to the terms and conditions the district school board may establish.
[1965 c.100 §288; 1967 c.67 §9]

339.150 [Amended by 1957 c.256 §1; repealed by 1965 c.100 §456]

339.160 [Repealed by 1965 c.100 §456]

339.170 [Repealed by 1965 c.100 §456]

339.180 [Repealed by 1965 c.100 §456]
339.190 [Repealed by 1965 c.100 §456]
339.200 [Repealed by 1965 c.100 §456]

DISCIPLINE OF PUPILS

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

(2) The district school board may authorize the punishment, suspension or expulsion of any refractory pupil.

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

(4) Expulsion of a pupil for any cause shall not extend beyond the current term.
[1965 c.100 §289]

339.260 Injury to school property by pupil. (1) No pupil shall damage or injure any school property.

(2) A pupil who violates subsection (1) of this section may be punished, suspended or expelled.

(3) On complaint of the principal, the parents of a pupil who violates subsection (1) of this section are liable for damages to the amount of the injury as determined by the district school board. If the district school board brings a successful action for the recovery of such damages, the parents are liable for costs.
[1965 c.100 §290]

EXCLUSION OF MENTALLY UNABLE CHILDREN

339.310 Exclusion of children mentally unable to benefit from further instruction. Subject to the rules of the State Board of Education governing the procedure for such exclusion, 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.
[1965 c.100 §291]

339.320 Procedure for exclusion; opportunity for hearing. In order to exclude a child from the public school, the administrative head of the school district shall submit the evidence of mental retardation to the Superintendent of Public Instruction, who shall review the evidence and approve the exclusion request if in conformity with the rules of the State Board of Education. The administrative head shall promptly notify the person having legal custody of the child of the determination to exclude the child and that unless such person demands a hearing in the manner and within the time specified in ORS 339.330, an order will be made by the district school board permanently excluding the child from school.
[1965 c.100 §292]

339.330 Demand for hearing; notice of time and place for hearing. Any person having legal custody of a child, who feels aggrieved by any determination to exclude the child, may demand a hearing by written demand delivered to the office of the district school board of the district within 15 days from the receipt of notice of the determination. If no demand is made within the 15-day period, a final order shall be given. If timely demand is made, the district school board shall set a time and place for hearing and shall give the person demanding the hearing not less than 10 days' advance written notice of the time and place.
[1965 c.100 §293]

339.340 Conduct of hearing; witnesses; record. (1) At the time and place fixed for the hearing, the district school board shall conduct a hearing upon the question of the child's mental ability to benefit further from the instruction offered in the school district. Both the board and the complaining party may be represented in person or by attorney, and may present evidence.

(2) The district school board may issue subpenas to compel the attendance of witnesses at the hearing. At the complaining party's request, all witnesses desired by him shall be subpenaed 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 witnesses subpenaed on behalf of the complaining party. Upon request, subpenas for witnesses to testify either in support of the exclusion or on behalf of the complaining party shall be issued in blank by the board over the signature of its chairman. The witnesses are entitled to receive the same mileage and per diem as witnesses called in civil cases in the circuit courts of the state. Subpenaed witnesses shall be compelled to appear and submit to examination

and are subject to the penalties for perjury or contempt in ORS 33.020 and 162.120. All witnesses shall testify under oath or affirmation to be administered by any member of the board. Full opportunity for examination and cross-examination shall be accorded to each party.

(3) The district school board shall employ a competent person to record the full proceedings. The record shall be available without charge for the use of the complaining party in the event he wishes to apply to the courts for review.
[1965 c.100 §294]

339.350 Board action after hearing. After the conclusion of the hearing, the district school board shall give its decision on the evidence submitted at the hearing. In all hearings the findings and order of the board shall be in writing. A copy of the findings and order shall be served upon the complaining party.
[1965 c.100 §295]

339.360 Review by circuit court. If, after the hearing, the district school board 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 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 the circuit court.
[1965 c.100 §296]

MISCELLANEOUS

339.410 School hours of pupils under eight years of age. Pupils under eight years of age may be dismissed after school attendance of four hours duration. When dismissal is not practicable, pupils under eight years of age shall be allowed recesses of such length and frequency that the actual period of time spent in the schoolroom does not exceed three and one-half hours daily.
[1965 c.100 §297]

339.420 Attendance at religious instruction. Upon application of his parent or guardian, a child attending the public school may be excused from school for periods not exceeding 120 minutes in any week to attend weekday schools giving instruction in religion.
[1965 c.100 §298]

PENALTIES

339.990 Penalties. Violation of ORS 339 020, or failure to comply with the order issued under paragraph (b) of subsection (6) of ORS 339.030, is punishable, upon conviction, by a fine of not more than $100, or by imprisonment in the county jail for not more than 30 days, or both.
[Amended by 1965 c.100 §299; 1967 c.67 §10]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, 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 1, 1969.

Robert W. Lundy
Legislative Counsel

CHAPTER 340

[Reserved for expansion]