

Chapter 342

1971 REPLACEMENT PART

Teachers and Other School Personnel

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TEACHER CERTIFICATION

342.120 Definitions for ORS 342.120 to 342.190 and 342.505 to 342.655. As used in ORS 342.120 to 342.175, 342.180 to 342.190, 342.505 to 342.596 and 342.601 to 342.655, unless the context requires otherwise:

(1) "Administrator" includes all superintendents, assistant superintendents and principals in the public schools.

(2) "Instruction" includes direction of learning in class, in small groups, in individual situations, in the library and in guidance and counseling.

(3) "Intern teacher" means a regularly enrolled student of a standard teacher education institution who is noncertificated and who teaches under the supervision of the staff of the institution and of the employing school district in order to acquire practical experience in teaching and for which the student receives both academic credit from

the institution and financial compensation from the school district.

(4) "Standard teacher education institution" is one which meets the standards of the state board for preparation of teachers for grades 1 through 12.

(5) "Standard teacher education program" is one offered by a standard teacher education institution and is so recognized by the state board.

(6) "State board" means the State Board of Education.

(7) "Teacher" includes all certificated employes in the public schools who have direct responsibility for instruction and who are compensated for their services from public funds.

(8) "Teacher aide" means a noncertificated person employed by a school district whose assignment consists of and is limited to assisting a certificated teacher.

(9) "Teaching certificate" means a certificate issued under ORS 342.125. [1961 c.439 §1; 1965 c.100 §348; 1965 c.550 §1]

342.125 Types of certificates. (1) Teaching certificates shall be issued and renewed by the Superintendent of Public Instruction by the authority of the State of Oregon, subject to ORS 342.120 to 342.173 and the rules of the state board.

(2) Teaching certificates shall be of the following types:

- (a) Basic teaching certificate.
- (b) Standard teaching certificate.
- (c) Administrative certificate.
- (d) Restricted teaching certificate.

(e) Such other certificates as the state board, by rule, may establish under subsection (4) of ORS 342.135.

[1961 c.439 §2; 1965 c.100 §349; 1965 c.550 §2; part renumbered 342.127]

342.127 Fees. (1) The state board shall establish and the Superintendent of Public Instruction shall collect:

(a) A fee not to exceed \$25 for evaluation of the initial application for each teaching certificate for which application is made. If the applicant is eligible for the teaching certificate for which he applies, the Superintendent of Public Instruction shall issue the certificate without additional charge.

(b) A fee not to exceed \$25 for the renewal of each teaching certificate and a fee not to exceed \$5 for each duplicate teaching certificate.

(2) Fee rates established under subsection (1) of this section shall cover, but not

exceed, the full cost of certification activity incurred by the Department of Education during any biennium. All fees collected under this section shall be paid into the General Fund of the State Treasury.

(3) On and after July 1, 1965, in addition to the fee required by subsection (1) of this section for the issuance or renewal of a teaching certificate, the Superintendent of Public Instruction shall collect a fee of \$3 for each such issuance or renewal. However, the superintendent shall not collect more than \$3 at one time from any teacher or administrator regardless of the number of certificates held by the teacher or administrator.

(4) Notwithstanding subsection (3) of this section, if, at the time of application for a teaching certificate or for renewal thereof, the district employing the applicant indicates that he is teaching less than full time, the fee required under subsection (3) of this section shall be \$1.

[Subsections (1) and (2) formerly part of 342.125; subsection (3) enacted as 1965 c.535 §14; 1969 c.416 §1; 1971 c.41 §1]

342.130 Existing certificates not invalidated. (1) Nothing in ORS 342.120 to 342.173 is intended to invalidate the life of any certificate or diploma in effect on June 30, 1965, nor to invalidate the rights granted prior to June 30, 1965, by the law and the rules of the board under which the certificate or diploma was issued.

(2) Nothing in chapter 550, Oregon Laws 1965, is intended to invalidate the life of any teaching certificate in effect on August 13, 1965, or to alter the rights and privileges granted prior to August 13, 1965, by the law under which the teaching certificate was issued.

[1961 c.439 §3; 1965 c.100 §350; subsection (2) enacted as 1965 c.550 §4]

342.135 Basic, standard and other teaching certificates. (1) A teaching certificate provided for in this section shall qualify its holder to accept any instructional assignment from kindergarten through grade 14 for which he has completed the professional requirements established by the rules of the state board.

(2) A basic teaching certificate shall be issued on application to an otherwise qualified person who has completed four years of a standard teacher education program, has the baccalaureate degree from a standard teacher education institution and meets such

other requirements as the state board may consider necessary to maintain and improve quality of instruction in the public schools of the state.

(a) Holders of the basic teaching certificate who meet the requirements of the state board to teach in the regular classroom program of the elementary school, kindergarten through grade eight, may renew the basic certificate to qualify them to continue in such teaching by verification of successful teaching experience in keeping with state board rules and without requirement of additional educational preparation.

(b) Secondary teachers may teach in the junior or senior high school in those subject fields taught in the public schools in which they have a college major or in which they have met the requirements of the state board.

(3) (a) A standard teaching certificate shall be issued on application to an otherwise qualified person who has completed a five-year standard teacher education program, has taught on a basic teaching certificate for a minimum period of time to be determined by the state board, and is recommended for certification by the standard teacher education institution or the school district, whichever offered the program, after the fifth year of teacher preparation has been completed.

(b) The fifth year of preparation shall be a planned education program consisting of courses taken in a standard teacher education institution or in an in-service training program offered by a school district for which credit is given by a standard teacher education institution or some combination of both, in accordance with rules of the state board.

(4) The State Board of Education may establish such other types of teaching certificates as it considers necessary for operation of the public schools of the state and may prescribe the qualifications for such certificates. However, no certificate established under the authority of this subsection shall be required for a regular classroom teaching position in the public schools.

[1961 c.439 §4; 1965 c.100 §354; 1965 c.550 §3]

342.140 Administrative certificate. (1) An administrative certificate shall qualify its holder to serve in any administrative assignment for which he has completed the professional requirements established by the rules of the state board.

(2) An administrative certificate shall be issued on application to an otherwise qualified person who meets such requirements as to professional preparation and experience as the state board may establish.

(3) An administrative certificate good for only one year may be issued on application to an otherwise qualified person who has not complied with the minimum requirements established by the state board for an administrative certificate. Such temporary certificates shall be issued to persons who hold a teaching certificate and meet such other requirements as may be established by the state board.

[1961 c.439 §5; 1965 c.100 §355]

342.143 Qualifications for issuance of teacher's certificate. (1) No teaching certificate shall be issued to any person until he has attained the age of 18 years and has furnished satisfactory evidence that he has proper educational training and that he is either an American citizen or has filed his declaration of intention to become an American citizen unless he is a foreign teacher on an exchange basis.

(2) The Superintendent of Public Instruction may also require an applicant for a teaching 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 teaching certificate under subsection (2) of this section, no teaching 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 161.405, 161.435, 163.175, 163.210, 163.220, 163.225, 163.235, 163.270, 163.355, 163.365, 163.375, 163.385, 163.395, 163.405, 163.435, 163.465, 163.515, 163.525, 163.575, 164.245, 164.395, 167.005, 167.012, 167.015, 167.017, 167.020, 167.025, 167.030, 167.035, 167.040, 167.045, 167.060 to 167.095, 167.105, 167.115, 167.120, 167.125, 167.130, 167.135, 167.145, 167.151, 167.170, 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.

[1965 c.100 §352; 1971 c.743 §357]

342.145 [1961 c.439 §6; 1965 c.100 §356; repealed by 1965 c.550 §6]

342.150 [1961 c.439 §7; 1963 c.173 §1; 1965 c.100 §357; repealed by 1965 c.550 §6]

342.155 Teacher aides and intern teachers. A school district may employ teacher aides and intern teachers subject to the rules of the state board.

[1961 c.439 §8; 1965 c.100 §358]

342.160 [1961 c.439 §9; repealed by 1965 c.100 §456 and 1965 c.550 §6]

342.165 Rules of state board. (1) The state board shall make rules necessary for the issuance, continuation, renewal, lapse or reinstatement of certificates issued under the provisions of ORS 342.120 to 342.165.

(2) In establishing such rules, the state board shall consider:

(a) Its responsibilities to represent the public interest in the development of educational policies;

(b) The capabilities of Oregon teacher education institutions to prepare teachers;

(c) The norms required for the teaching assignments;

(d) The improvement of teaching;

(e) The adequacy of the teacher supply;

(f) The value of experience or nonacademic learning;

(g) The responsibilities imposed upon school districts by geographic and demographic conditions;

(h) The recommendations of the Teacher Standards and Practices Commission; and

(i) Such other matters as tend to improve education.

[1961 c.439 §10; 1965 c.100 §359; 1965 c.535 §10]

342.170 [1961 c.439 §11; 1965 c.100 §360; repealed by 1965 c.535 §17]

342.173 Effect of employing noncertificated person as teacher. Any school district which employs as a teacher any noncertificated person shall forfeit in state funds due the district the amount of the salary paid to the noncertificated person for the year during which the noncertificated person is employed as a teacher.

[1965 c.100 §353]

342.175 Grounds for revocation or suspension of certificate; reinstatement. (1) Action to suspend or revoke any teaching certificate may be initiated by the Superintendent of Public Instruction, or may be initiated by him upon the basis of a written complaint made to him by or through any administrator directly responsible to any district school board, charging the teacher or administrator with immorality, intemperance, crime against the law of this state not

described in subsection (2) of this section, gross neglect of duty or any gross unfitness.

(2) The Superintendent of Public Instruction shall revoke any teaching certificate when the holder after August 20, 1957, has been convicted of:

(a) A violation of any law of this state or any municipal ordinance of this state involving any sexual offense defined or referred to in ORS 161.405, 161.435, 163.175, 163.210, 163.220, 163.225, 163.235, 163.270, 163.355, 163.365, 163.375, 163.385, 163.395, 163.405, 163.435, 163.465, 163.515, 163.525, 163.575, 164.245, 164.395, 167.005, 167.012, 167.015, 167.017, 167.020, 167.025, 167.030, 167.035, 167.040, 167.045, 167.060 to 167.095, 167.105, 167.115, 167.120, 167.125, 167.130, 167.135, 167.145, 167.151, 167.170, 167.210, 167.230, 167.240; or

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

(3) The Superintendent of Public Instruction may revoke any teaching certificate upon evidence that the holder knowingly made any false statement in the application for the certificate.

(4) The teaching certificate of any teacher failing to obtain American citizenship within seven years from the date of filing his declaration of intention shall be revoked and the teacher is ineligible for further certification until American citizenship is obtained.

(5) Any person whose teaching certificate has been suspended or 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 the suspension or revocation. A teaching certificate revoked under subsection (2) of this section is not subject to reinstatement.

[Formerly 342.070; amended by 1965 c.100 §361; 1971 c.743 §358]

342.177 Hearing and decision on charges.

(1) Immediately upon the initiation of action under subsection (1) of ORS 342.175, the Superintendent of Public Instruction shall make a preliminary investigation of the facts on which the charge is based. If, in the opinion of the superintendent, the investigation indicates that there are probable grounds for suspension or revocation of the teaching certificate, he shall notify in writing the teacher or administrator against

whom charges have been made, enclose a statement of the charges and set a date for a hearing.

(2) Prior to the hearing the Superintendent of Public Instruction may cause an investigation of the facts involved in the charge to be made by three members of the Teacher Standards and Practices Commission, established under ORS 342.350, to be designated by the commission. The investigation must be made if requested in writing by the teacher or administrator against whom the charge is made. The designated members of the commission shall be furnished appropriate professional and other special assistance reasonably required to conduct its investigation, shall be empowered to subpoena and swear witnesses and shall report in writing its findings and recommendations to the Superintendent of Public Instruction and to the teacher or administrator against whom the charge is made.

(3) The hearing shall be private unless the teacher or administrator against whom the charge is made requests a public hearing. Minors shall not be permitted to attend any hearing except as witnesses duly subpoenaed to testify with respect to the charges made. The teacher or administrator against whom the charge is made shall have the right to be represented by counsel and to present evidence and argument. The evidence must be confined to the charges.

(4) Within 10 days after the hearing, the Superintendent of Public Instruction shall render his decision, taking into consideration the findings and recommendations of the designated members of the commission authorized by subsection (2) of this section, if any, and the evidence presented at the hearing. If the decision of the superintendent is that the charge of immorality, intemperance, crime against the law of this state, gross neglect of duty or any gross unfitness has been proven, the superintendent shall suspend or revoke the teaching certificate of the teacher or administrator against whom the charge is made. The superintendent shall notify in writing the teacher or administrator of the decision.

[1965 c.100 §363; 1965 c.535 §11]

342.180 Appeal to state board. (1) Any person whose certificate has been suspended or revoked or who has been refused reinstatement, and feels aggrieved at the decision, may appeal from the decision to the

state board. The appeal must be filed within 30 days after the date of notification of the decision of the Superintendent of Public Instruction.

(2) An appeal made under this section in a proceeding to suspend or revoke a teaching certificate shall operate as a stay of the suspension or revocation until the meeting of the state board next following the filing of the appeal, at which meeting the appeal shall be decided. The state board may affirm, reverse or modify the decision of the Superintendent of Public Instruction, and shall notify in writing the person initiating the complaint and the teacher or administrator against whom the charge is made of its decision.

[Formerly 342.075; amended by 1965 c.100 §364]

342.185 Appeal from state board to court. (1) Any person against whom the state board has decided on the issue of suspension, revocation or reinstatement of a teaching certificate under ORS 342.180 may appeal the decision of the state board to the circuit court for the county in which the person resides. The appeal must be filed 30 days after the date of notification of the decision of the state board.

(2) An appeal made under this section in a proceeding to suspend or revoke shall operate as a stay of the suspension or revocation until the determination of the appeal. The appeal shall be governed by the practice in suits in equity.

(3) The appeal may be carried from the circuit court to the Supreme Court.

[1961 c.677 §3; 1965 c.100 §365]

342.190 Administrative Procedure Act not applicable to proceedings for reinstatement, revocation or suspension. ORS 183.310 to 183.500 do not apply to proceedings under ORS 342.175, 342.177, 342.180 and 342.185.

[1961 c.677 §4; 1965 c.100 §366]

342.195 Teaching certificates based on experience in certain federal programs. Upon payment of the required fees, an otherwise qualified applicant for a basic teaching certificate for secondary education or a restricted teaching certificate for elementary education who is unable to meet requirements under subsection (2) of ORS 342.135 shall be granted the certificate upon showing by proof satisfactory to the state board that he has completed under an Armed Forces of the United States or Peace Corps program, or as a volunteer under section

603 of the Economic Opportunity Act of 1964 (Public Law 88-452), two years of satisfactory service which emphasized teaching in any of grades 1 through 14 in subjects regularly taught in public schools if he either:

(1) Has completed four years of a standard teacher education program and has the baccalaureate degree from a standard teacher education institution; or

(2) Has at least the baccalaureate degree from an accredited institution of higher education and has completed a teacher training program provided under the auspices of the federal program.

[1967 c.304 §2]

342.200 Administrative certificates based on professional skills and experience.

In order to allow the school districts of the state to take full advantage of various professional skills and disciplines not directly developed through teaching experience or professional education for which teaching experience is a prerequisite, it is the public policy of the State of Oregon that the state board, in establishing professional requirements and experience under ORS 342.140, shall consider professional skills, education and experience not directly related to, nor contingent upon, teaching experience or training as a classroom teacher.

[1971 c.570 §1]

342.205 [Repealed by 1965 c.608 §21]

342.210 [Amended by 1955 c.281 §1; 1959 c.433 §1; repealed by 1965 c.608 §21]

342.215 [Repealed by 1957 c.591 §1]

342.216 [1957 c.590 §2; repealed by 1965 c.608 §21]

342.218 [1961 c.69 §§2, 3; repealed by 1965 c.608 §21]

342.220 [Amended by 1957 c.591 §2; repealed by 1965 c.608 §21]

342.225 [Amended by 1957 c.591 §3; repealed by 1965 c.608 §21]

342.230 [Amended by 1957 c.591 §4; repealed by 1965 c.608 §21]

342.235 [Amended by 1959 c.433 §2; repealed by 1965 c.608 §21]

342.240 [Repealed by 1965 c.608 §21]

342.245 [Repealed by 1965 c.608 §21]

342.250 [Amended by 1957 c.211 §1; repealed by 1965 c.608 §21]

342.252 [1955 c.281 §3; repealed by 1965 c.608 §21]

342.255 [Repealed by 1965 c.608 §21]

342.260 [Repealed by 1965 c.608 §21]

- 342.265 [Repealed by 1965 c.608 §21]
- 342.270 [Repealed by 1965 c.608 §21]
- 342.275 [Repealed by 1965 c.608 §21]
- 342.280 [Repealed by 1965 c.608 §21]
- 342.285 [Repealed by 1965 c.608 §21]
- 342.290 [Repealed by 1965 c.608 §21]
- 342.295 [Repealed by 1965 c.608 §21]
- 342.300 [Repealed by 1965 c.608 §21]
- 342.305 [Repealed by 1965 c.608 §21]
- 342.310 [Repealed by 1965 c.608 §21]
- 342.315 [Repealed by 1965 c.608 §21]
- 342.320 [Repealed by 1965 c.608 §21]
- 342.325 [Repealed by 1965 c.608 §21]
- 342.330 [Amended by 1953 c.638 §2; 1959 c.400 §4; repealed by 1965 c.608 §21]

TEACHER STANDARDS AND PRACTICES COMMISSION

342.340 Definitions for ORS 342.340 to 342.430. As used in subsection (3) of ORS 342.127, ORS 342.177 and 342.340 to 342.430, unless the context requires otherwise:

- (1) "Administrator" means any person who holds an Oregon administrative certificate.
- (2) "Board" means the State Board of Education.
- (3) "Commission" means the Teacher Standards and Practices Commission.
- (4) "Teacher" means any person who holds an Oregon teaching certificate. [1965 c.535 §1]

342.350 Commission established; term; vacancy; removal. (1) There hereby is created a Teacher Standards and Practices Commission consisting of 16 members appointed by the State Board of Education.

(2) The term of office of a member is three years. Before the expiration of the term of a member, the board shall appoint his successor to assume his duties on January 1 next following. A member is eligible for reappointment but only for one additional term. In case of a vacancy for any cause, the board shall make an appointment to become immediately effective for the unexpired term.

(3) The board may remove any member for cause after a hearing. [1965 c.535 §2]

342.360 Membership; qualifications. (1) The membership of the Teacher Standards and Practices Commission shall consist of:

- (a) Fourteen members from a panel

nominated by teachers and administrators as provided in ORS 342.370;

(b) One member from the faculty of an approved teacher education institution in Oregon who is selected from a panel nominated by the organization of private colleges; and

(c) One member from a panel of faculty members in state institutions of higher education nominated by the State Board of Higher Education.

(2) Members must have been actively engaged in teaching, supervising or administering in the public schools or in approved teacher education institutions in Oregon for the period of five years immediately preceding appointment. Members appointed under paragraph (a) of subsection (1) of this section must hold a valid Oregon teaching certificate other than a restricted teaching certificate.

(3) Twelve members appointed under paragraph (a) of subsection (1) of this section shall be designated as representatives in the categories described in this subsection:

- (a) Four elementary teachers;
- (b) Four junior or senior high school teachers;
- (c) One elementary school principal;
- (d) One junior or senior high school principal;
- (e) One superintendent of city schools; and
- (f) One county superintendent or a superintendent employed by an intermediate education district board. [1965 c.535 §3]

342.370 Nomination of panel. Nomination of teachers and administrators appointed under paragraph (a) of subsection (1) of ORS 342.360 shall be by petition submitted to the board at least 90 days prior to January 1. Candidates must accept the nomination at least 60 days before January 1 by filing a written acceptance with the board. The petition must be signed by at least 25 percent or at least 50, whichever is the lesser, of the persons holding valid teaching certificates in the county in which the candidate is employed. A candidate shall be considered eligible for appointment for a period of three years following his nomination. However, a candidate may cause his name to be withdrawn from the panel by written notice to the board. [1965 c.535 §5]

342.380 Organization. (1) The commission shall select one of its members as chairman, and another as vice chairman, for such terms and with such powers and duties necessary for the performance of the functions of such offices as the commission shall determine.

(2) A majority of the commission constitutes a quorum for the transaction of business.

[1965 c.535 §6]

342.390 Meetings; expenses. (1) The commission shall meet at least once every six months at a place, day and hour determined by the commission. The commission shall also meet at such other times and places as are specified by the call of the chairman or of a majority of the members of the commission.

(2) A member of the commission shall receive no compensation for his services as a member; but, subject to any other applicable law regulating travel and other expenses for state officers, he shall receive his actual and necessary travel and other expenses incurred in the performance of his official duties.

[1965 c.535 §§7, 8]

342.400 Commission's function. (1) The commission shall conduct a continuous study of teacher standards and practices and make recommendations to the board. The areas which are subject to study and recommendation include but are not limited to:

(a) Standards for issuance, suspension and revocation of teaching certificates.

(b) Standards for competent and ethical performance of teaching and administrative duties.

(2) When requested to do so by the Superintendent of Public Instruction or by an applicant for a teaching certificate, the commission shall make recommendations to the superintendent concerning the waiver of certification requirements, and the issuance, suspension or revocation of teaching certificates.

[1965 c.535 §9]

342.410 Administrative services; reimbursements. (1) The commission shall utilize the physical facilities and administrative staff of the Department of Education for the discharge of all of the commission's duties as provided for in ORS 342.177 and 342.340 to 342.430. The commission shall pay to the department annually the cost of such admin-

istrative services which are required by ORS 342.177 and 342.340 to 342.430 and which are in excess of the usual expenditures of the department under ORS 342.165 and 342.175.

(2) Notwithstanding the provisions of subsection (1) of this section, the commission may at any time employ persons to provide such services as the commission shall require.

[1965 c.535 §12]

342.420 Member's salary; reimbursement to district. (1) Membership on the commission shall not affect a member's compensation from his employer or any other benefits to which he is entitled.

(2) A school district required to employ a substitute for a teacher or administrator who is absent from his employment while performing duties as a member of the Teacher Standards and Practices Commission shall be entitled to reimbursement for the district's actual expenses in employing the substitute. Reimbursement for the expense of employing such substitutes shall be made by the commission from the Teacher Standards and Practices Commission Account.

[1965 c.535 §13]

342.430 Teacher Standards and Practices Commission Account; appropriation. On or before the 10th day of each month, the Superintendent of Public Instruction shall pay into the State Treasury all moneys received by him under subsection (3) of ORS 342.127 during the preceding calendar month. The State Treasurer shall credit the moneys to the Teacher Standards and Practices Commission Account. The moneys in the Teacher Standards and Practices Commission Account are continuously appropriated to the commission for the purpose of paying the expenses of administering and enforcing subsection (3) of ORS 342.127, ORS 342.177 and 342.340 to 342.430.

[1965 c.535 §15; 1967 c.637 §8]

BOARD-TEACHER CONSULTATIONS ON EMPLOYMENT TERMS

342.440 Definitions for ORS 342.440 to 342.480. As used in ORS 342.440 to 342.480, unless the context requires otherwise:

(1) "Administrator" means a certificated staff member who devotes a majority of his employed time to service as a supervisor, principal, vice principal or director.

(2) "Budget calendar" means a chronological list of dates set by the district school

board for preparation, presentation and adoption of the budget.

(3) "Confer, consult and discuss in good faith" means the process whereby a school board, teachers and administrators or such representatives as each may designate, have the mutual obligation to meet and confer in order to exchange freely information, opinions, and proposals, to endeavor to reach agreement on matters described in subsection (1) of ORS 342.460, and to seek to implement agreements reached.

(4) "Factfinding" means investigation of a persistent disagreement by an impartial individual who submits a report to the parties describing the issues involved in the disagreement, and containing recommendations for settlement.

(5) "Mediation" means efforts by an impartial third party to assist in reconciling a dispute between school boards and teachers or administrators regarding matters described in subsection (1) of ORS 342.460.

(6) "Teacher" means any person who holds a position requiring a teacher's certificate as provided in ORS 342.125 who is regularly employed on at least a half-time basis in a school district and who is not an administrator.

[1971 c.755 §2]

342.450 Policy. The Legislative Assembly, recognizing that teaching is a profession, declares that in matters arising between district school boards and certificated school personnel, it is in the best interest of public education in this state to establish a procedure for the orderly, equitable and expeditious resolution of such matters.

[1965 c.390 §1; 1969 c.647 §1]

342.460 Consultation between boards and teachers or administrators; representational elections; effect of election; new election. (1) Teachers and administrators, in separate categories, in a school district, shall have the right to confer, consult and discuss in good faith with the district school board by which they are employed on matters of salaries and related economic policies affecting professional services, grievance procedures and compensation beyond the normal duties for which the teacher or administrator is employed.

(2) The board may be represented by a committee of its members or may designate a representative. The teachers or administrators may be represented (a) individually

in a district employing 10 or fewer teachers or administrators, respectively; (b) by a committee of such teachers or administrators elected by a majority of the teachers or administrators; or (c) by an employe organization elected by a majority of the teachers or administrators. In the event an employe organization is elected, the organization shall have the right to select its representatives. However, nothing in this section is intended to affect the powers and duties of the district school board over matters of salaries and economic policies affecting professional services.

(3) The district school board shall establish election procedures to ensure that teachers and administrators shall have the opportunity, not later than 30 days after the first day of each school year, to determine by one or more elections conducted by the board or by its designee whether the teachers or administrators shall be represented under ORS 342.440 to 342.480 individually, by a committee of teachers or administrators, or by a particular employe organization. Notwithstanding subsection (7) of this section, all elections must be held within the period specified in this subsection.

(4) Such election may be called at the request of and an organization may be placed on the ballot either (a) by certifying to the district board that an organization has a membership enrollment of at least 40 percent of the teachers or administrators in the district, or (b) by petition containing the signatures of 30 percent of the teachers or administrators of the district. Committees may be placed on the ballot by petition in the same manner. Any other employe organization may intervene and be placed on the ballot by filing a petition signed by 10 percent of the teachers or administrators. If no choice of representation receives a majority, the subsequent ballots shall contain only the two choices receiving the highest and next highest number of votes.

(5) The committee or organization selected to represent the teachers or administrators of the district shall be the exclusive representative of the teachers or administrators for the purposes of this section. However, a petition signed by 30 percent of the teachers or administrators may be filed within 15 days after the first day of the school year requesting a new election be held to determine the choice of representation and an election shall

be held. In lieu of the petition, any organization not representing the teachers or administrators but having a membership enrollment of at least 40 percent of the teachers or administrators may require an election. However, no such election shall be held until at least one year after election of any choice of representation and such election must be held within the period specified in subsection (3) of this section.

[1965 c.390 §§2, 3; 1969 c.647 §2; 1971 c.755 §3]

342.470 Budget calendar; mediation procedure; factfinding procedure. (1) A school district board shall adopt a budget calendar in September of each school year. If 60 days prior to the date programmed in the budget calendar for delivery of the budget message, teachers or administrators or their representatives meeting with the board under ORS 342.460 have not reached agreement over any matter within the scope of the right granted in ORS 342.460, mediation shall be invoked. The mediator shall be selected by mutual agreement but if there is no agreement within five days, the Superintendent of Public Instruction shall be notified by the board and shall appoint a mediator from a list of qualified persons compiled and published by him and containing names of mediators and factfinders.

(2) If the mediation does not result in agreement within 10 days of the appointment of the mediator, the mediator shall so report and a factfinder shall be appointed by the Superintendent of Public Instruction.

(3) Within 15 days of the time of his appointment, the factfinder shall submit in writing to the board and to the employees' representatives his report, including a recommendation for a reasonable basis for the settlement of the disagreement.

(4) Consultation may continue during the time that mediation or factfinding is being conducted.

[1965 c.390 §4; 1969 c.647 §3; 1971 c.755 §4]

342.480 Agreements to be in writing at request of party; determination of views on other matters. (1) If requested by either party, agreements reached under the provisions of ORS 342.440 to 342.480 shall be in writing. The entire procedure described in ORS 342.460 and 342.470 shall be completed 25 days prior to the date fixed in the budget calendar for delivery of the budget message.

(2) District school boards shall provide a procedure for determining teachers' or

administrators' views on issues other than matters described in subsection (1) of ORS 342.460.

[1971 c.755 §5]

HIRING, DISMISSAL AND RESIGNATION OF TEACHERS

342.505 Hiring of teachers. (1) Subject to subsection (2) of this section, the district school board, at a general or special meeting called for that purpose, may hire teachers and shall record such action in the minutes. The board shall make contracts with teachers that specify the wages, number of days to be taught and time employment is to begin, as agreed upon by the parties. The board shall cause the signed contracts to be filed in the office of the district school board and shall provide each teacher with a copy of the contract. If, however, the contract is for a term longer than one year, the method by which the wages are to be arrived at during the term of the contract may be specified.

(2) No hiring or written contract of any teacher is valid unless the teacher, on or before the date employment is to begin, holds a valid teaching certificate.

[Amended by 1955 c.219 §1; 1961 c.383 §1; 1965 c.100 §367]

342.508 Contracts in districts not subject to Fair Dismissal Law but having average daily membership over 800 pupils. (1) In any school district which is not subject to the provisions of ORS 342.200 and 342.805 to 342.955 but which has an average daily membership in excess of 800 pupils, a teacher or administrator who has been regularly 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 a district subject to this section shall give written notice, 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 the renewal or nonrenewal of his contract. If the

contract is not renewed, the notice of such nonrenewal and the reasons therefor shall be given in the manner prescribed by ORS 342.513. If the school board fails to give notice by March 15, the contract shall be considered renewed for the following school year at a salary not less than the annual salary being received at the time of renewal. 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 subject to this section merges with one or more school districts or annexes one or more school districts or other territory and if the newly enlarged school district is not subject to the provisions of ORS 342.200 and 342.805 to 342.955, the contracts of teachers or administrators described in subsection (1) of this section prior to the merger or annexation shall continue to be subject to this section as if there had been no merger or annexation. All other teachers or administrators employed by the newly enlarged school district shall be entitled to count their prior continuous service not to exceed the preceding two years, as a teacher or administrator in the territory of the newly enlarged school district toward satisfying the three-year requirement under subsection (1) of this section.

(4) Nothing in this section shall prevent a district 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 requests a contract for a shorter period.

[1957 c.446 §1; 1965 c.100 §368; 1965 c.608 §20]

342.510 [Amended by 1965 c.100 §380; renumbered 342.965]

342.513 Renewal or nonrenewal of contracts for following year. (1) Each district school board shall give written notice by March 15 of each year to all teachers and administrators in its employ who are not under tenure or who are not eligible for a three-year contract under ORS 342.508 the renewal or nonrenewal of the contract for the following school year. In case the district school board does not renew the contract, the material reason therefor shall, at the request of the teacher or administrator, be spread upon the records of the school district and the board shall furnish a statement of the reason for nonrenewal to the teacher or administrator. If any district school board

fails to give such notice by March 15, the contract shall be considered renewed for the following school year at a salary not less than that being received at the time of renewal. The teacher or administrator may bring an action of mandamus to compel the district school board to issue such a contract for the following school year.

(2) This section is not effective unless teachers or administrators notify the board in writing on or before April 1 of acceptance or rejection of the position for the following school year.

[Formerly 342.635]

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

[Amended by 1965 c.100 §381]

342.520 [Amended by 1959 c.361 §1; 1965 c.100 §382; renumbered 342.970]

342.525 [Amended by 1965 c.100 §383; renumbered 342.613]

342.530 Dismissal of teachers. (1) During the period of the contract under ORS 342.508 or 342.513, the district school board shall dismiss teachers only for:

- (a) Inefficiency;
- (b) Immorality;
- (c) Insubordination;
- (d) Neglect of duty;
- (e) Physical or mental incapacity;
- (f) Conviction of a felony or of a crime involving moral turpitude;
- (g) Inadequate performance;
- (h) Failure to comply with such reasonable requirements as the board may prescribe to show normal improvement and evidence of professional training and growth; or

(i) Any cause which constitutes grounds for the revocation of such permanent teacher's teaching certificate.

(2) Before the district school board enters an order dismissing a teacher, it shall give the teacher written notice of the charges against him and an opportunity to be heard in his own defense in person or by attorney. However, for a breach of contract of teaching, the teacher or the district shall have their ordinary legal remedies.

(3) In case the board passes an order to dismiss a teacher, the material reason therefor shall be stated in the record of the district school board.

[Amended by 1965 c.100 §370; 1967 c.324 §1; 1969 c.84 §1]

342.535 [Amended by 1965 c.100 §371; repealed by 1969 c.84 §2]

342.540 [Amended by 1965 c.100 §372; repealed by 1969 c.84 §2]

342.545 Termination of teacher's contract; release. (1) Sickness or other unavoidable circumstances which prevent the teacher from teaching 20 school days immediately following exhaustion of sick leave accumulated under ORS 342.595 shall be sufficient reason for the school board to terminate the teacher's employment without penalty or to place the teacher on leave without pay for the remainder of the regular school year. This subsection applies to teachers whose employment is based either upon contract or tenure, or both.

(2) A district school board may release a teacher from a contract by mutual agreement. No board is required to consider any resignation not in writing.

[Formerly 342.640; amended by 1969 c.106 §1]

342.550 [Repealed by 1965 c.100 §456]

342.553 Resignation in violation of contract. (1) Any teacher who has entered into a contract to teach in any public school and who resigns 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 teaching certificate suspended for the remainder of the school year by the Superintendent of Public Instruction upon notice of the resignation from the district school board to the superintendent. The superintendent shall notify the teacher of the suspension of the teaching certificate held by the teacher.

(2) Any teacher whose teaching certificate has been suspended under subsection (1) of this section may appeal to the state board within 20 days after the date of the notice of suspension. The notice of appeal must be in writing and sent to the state board not later than one day following the 20-day period. The state board shall fix the earliest possible date for a hearing on the suspension and shall notify the teacher and the district school board concerned. The decision of the state board is final.

(3) If an appeal is made to the state board, suspension of the teaching certificate shall be stayed until the state board reaches a decision.

[Formerly 342.645]

342.555 [Repealed by 1965 c.100 §456]

342.560 [Amended by 1955 c.618 §1; 1965 c.100 §384; renumbered 342.975]

342.565 [Repealed by 1965 c.100 §456]

342.570 [Repealed by 1965 c.100 §456]

342.575 [Amended by 1955 c.618 §2; 1965 c.100 §385; renumbered 342.980]

342.580 [Repealed by 1965 c.100 §456]

342.585 [Repealed by 1965 c.100 §456]

342.590 [Repealed by 1963 c.544 §52]

TERMS AND CONDITIONS OF EMPLOYMENT OF SCHOOL PERSONNEL

342.595 Sick leave for teachers; other leave. (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 teaching 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 at full pay 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 teaching.

(4) Sick leave not taken shall accumulate. Unless the district school board authorizes a greater number, no teacher is entitled to more than 100 days of accumulated sick leave at full pay. A district school board is required to permit a teacher to take not to exceed 10 days of sick leave at full pay accumulated in another Oregon district. However, no school district shall grant such leave to a teacher who was not employed as a teacher during the preceding school year.

(5) Nothing in this section is intended to prevent a school district from authorizing leave without pay for any reason.

[Amended by 1953 c.392 §2; 1961 c.357 §1; 1963 c.211 §1; 1965 c.100 §375]

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

(a) "School employe" includes all regular 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 consecutive 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 100 days of accumulated sick leave at full 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.

(6) Nothing in this section is intended to prevent a school district from authorizing leave without pay for any reason.

[1957 c.457 §1; 1963 c.122 §1; 1965 c.100 §376; 1965 c.183 §1]

342.598 Insurance, medical and hospital service contracts covering school employes.

(1) Any district school board may enter into contracts of insurance or medical and hospital service contracts covering their employes for remedial care and hospital benefits. Failure to procure a program of hospital-medical insurance shall not be construed as negligence or lack of diligence on the part of the district school board or members thereof.

(2) As used in this section "remedial care" includes services rendered by a person licensed to practice one or more of the healing arts within the scope of his license or any other remedial care recognized under the laws of the state.

(3) The school district may agree to pay none, part or all of the premiums on policies of insurance or service contracts entered into pursuant to this section.

(4) No premium or other periodic charge on any insurance, medical or hospital service contract shall be paid unless the insurer or hospital association issuing such policy or

contract is by law authorized to transact business as an insurance company or hospital association in this state.

(5) The board may negotiate more than one contract with one or more insurance companies or hospital associations if necessary to obtain optimum coverage at minimum cost.

[1965 c.254 §1]

342.600 [Amended by 1955 c.101 §2; 1961 c.439 §12; 1963 c.544 §50a; 1965 c.100 §378; 1965 c.216 §1; repealed by 1967 c.67 §13 (342.601 enacted in lieu of 342.600)]

342.601 Registration of teaching certificates and contracts. (1) As used in this section "administrative office for the county" means the administrative office of the county school district, of the intermediate education district, or of the administrative school district which includes the entire county.

(2) In a common or union high school district with less than 1,000 children, according to the latest school census:

(a) All teachers and administrators shall register their teaching certificates and contracts in the administrative office for the county in which the administrative office of the employing district is located. Registration shall be made not later than October 15 each year or, if the contract is not executed until after the opening date of school, the teaching certificate and contract shall be registered within six weeks of the date of the contract.

(b) Any teacher or administrator who fails to comply with paragraph (a) of this subsection shall forfeit to the employing district the full amount of his salary for the time he is employed after the required date of registration and before he registers his teaching certificate and contract.

(3) In a school district with 1,000 or more children, according to the latest school census the district school board shall submit to the administrative office of the county a report on all personnel employed by the district. The report shall contain the names of teachers, administrators and other personnel, the grade or subject taught, if any, salary paid and the type of teaching certificate held, if any, and shall be filed not later than October 15 of each year.

(4) No district shall receive any payment from the county school fund until the registration required by subsection (2) of this section has been completed or, if applicable, the report required by subsection (3) of this section has been filed.

(5) The salary forfeited by a teacher or administrator under paragraph (b) of subsection (2) of this section shall be withheld by the administrative office of the county from the apportionment next due the employing school district after the teacher's or administrator's failure has been determined. [1967 c.67 §14 (enacted in lieu of 342.600)]

342.602 Registration of health certificate. 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 a certificate of health showing that he is free from communicable tuberculosis has been registered for the school year for which he is employed. 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. Except as provided in ORS 342.601, the certificate of health shall be registered by its holder in the office of the school board which has jurisdiction over the county in which the certificate holder is to function as a school employe.

[Formerly 342.065; amended by 1965 c.100 §379]

342.604 Standard form for reporting salaries and other benefits. In reporting the compensation of school district employes, the State Board of Education shall prepare a standard form for the purpose of reporting the salary plus other benefits including their dollar value.

[1971 c.519 §2]

342.605 [Repealed by 1965 c.100 §456]

342.608 Working hours for certificated personnel; duty-free lunch period required; exception. (1) School boards shall fix the working hours for full-time and part-time certificated staff members. They shall direct that full-time staff members be provided a time for a 30-minute continuous duty-free lunch period during the regularly scheduled lunch hours.

(2) Any school principal who fails to schedule a continuous 30-minute duty-free lunch period in accordance with this section shall be guilty of neglect of duty under ORS 342.530 or 342.865.

(3) No teacher shall by oral orders or written agreement fail to receive a 30-minute lunch period.

(4) School boards shall not be required

to employ special personnel to supervise students during lunch periods.

(5) This section does not apply in school buildings where fewer than three teachers are employed.

[1971 c.201 §1]

Note: ORS 342.608 takes effect July 1, 1972.

342.610 Minimum salary for teachers.

(1) No district school board shall pay a certificated teacher having less than a bachelor's degree preparation a salary of less than \$3,400 for a school year of nine and one-half school 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 school months.

(2) No district school board shall pay a certificated teacher having a bachelor's degree a salary of less than \$3,700 for a school year of nine and one-half school 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 school months.

(3) No district school board shall pay a certificated teacher having a master's degree a salary of less than \$4,000 for a school year of nine and one-half school 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 school 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 \$24 per day during the 1972-73 school year and \$27 per day each school year thereafter.

[Amended by 1955 c.130 §1; 1957 c.262 §1; 1965 c.100 §377; 1967 c.625 §1; 1971 c.536 §1]

342.613 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 any part of his salary. If any board and teacher enter into such contract, the contract is void and the teacher's teaching certificate shall be revoked.

[Formerly 342.525; amended by 1967 c.67 §12]

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 district school board issuing the contract and a copy shall be given to the person subscribing to the oath of affirmation.

[Amended by 1965 c.100 §386]

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 [Repealed by 1965 c.100 §456]

342.635 [Amended by 1957 c.443 §1; 1965 c.100 §369; renumbered 342.513]

342.640 [Amended by 1965 c.100 §373; 1965 c.163 §1; renumbered 342.545]

342.645 [Amended by 1953 c.36 §2; 1959 c.441 §1; 1965 c.100 §374; renumbered 342.553]

342.650 Wearing of religious dress prohibited. No teacher in any public school shall wear any religious dress while engaged in the performance of his duties as a teacher.

[Amended by 1965 c.100 §387]

342.655 Action against teacher violating ORS 342.650. Any teacher violating the provisions of ORS 342.650 shall be suspended from employment by the district school board. The board shall report its action to the Superintendent of Public Instruction who shall revoke the teacher's teaching certificate.

[Amended by 1965 c.100 §388]

342.660 [Repealed by 1965 c.100 §456]

342.663 Hearing on demotion or dismissal of certain district employes. (1) As used in this section "school employe" includes all employes of a public school district except those for whom a teaching certificate is required as a basis for employment in a public school district.

(2) A school employe who has been demoted or dismissed shall be entitled to a hearing before the school board if a written request is filed with the board within 15 days of the dismissal or demotion.

(3) School district employes subject to the civil service provisions of ORS chapter 242 are exempt from the provisions of this section.

[1969 c.266 §§1, 2, 3]

342.665 [Amended by 1961 c.204 §1; repealed by 1965 c.100 §456]

342.670 [Repealed by 1965 c.100 §456]

342.675 [Repealed by 1965 c.100 §456]

342.680 [Repealed by 1965 c.100 §456]

342.685 [Repealed by 1965 c.100 §456]

BOARD-CLASSIFIED EMPLOYE CONSULTATION ON EMPLOYMENT TERMS

342.710 Definitions for ORS 342.710 to 342.780. As used in ORS 243.770 and 342.710 to 342.780, unless the context requires otherwise:

(1) "Administrator" means persons designated by the district school board as having authority in the interest of the school district to hire, transfer, suspend, lay off, promote, discharge, assign, reward or discipline other employes.

(2) "Budget calendar" means a chronological list of dates set by the district school board for preparation, presentation and adoption of the budget.

(3) "Classified personnel" means the employes of a school district who are not required to hold teaching certificates under ORS 342.125.

(4) "Confer, consult and discuss in good faith" means the process whereby a school board, or such representatives as it may designate, and representatives of classified personnel or their organization, have the mutual obligation to meet and confer in order to exchange freely information, opinions and proposals, to endeavor to reach agreement on matters within the scope of discussions and to seek to implement agreements reached.

(5) "Confidential employe" means one whose responsibility or knowledge in connection with the issues involved in conferring, consulting and discussing in good faith would make his participation in such process incompatible with his official duties.

(6) "Factfinding" means investigation of a persistent disagreement by an individual who submits a report to the parties describing the issues involved and containing recommendations for settlement.

(7) "Mediation" means efforts by an impartial third party to assist in reconciling a dispute regarding salaries and related economic issues and grievance procedures between classified personnel and district school boards.

[1971 c.582 §1]

342.720 Consultation between board and classified personnel; representation; eligibility. (1) Classified personnel and the district school board by which they are employed shall confer, consult and discuss in good faith on matters of salaries and related economic issues and grievance procedures. However, nothing in this section is intended to affect the powers and duties of the district school board over matters of salaries and related economic issues.

(2) The board may be represented by a committee of its members or may designate a representative.

(3) Classified personnel may be represented by a committee elected by the majority of such personnel or by an employe organization elected by a majority of such personnel. In the event an employe organization is elected, the organization shall have the right to select its representative or representatives.

(4) Administrators and confidential employes shall not be eligible to participate in the procedures specified in ORS 243.770 and 342.710 to 342.780.

[1971 c.582 §§2, 7]

342.730 Election procedures to be established. The district school board shall establish election procedures to insure that classi-

fied personnel shall have the opportunity to determine by election whether they shall be represented by a committee of personnel or by a particular employe organization.

[1971 c.582 §3]

342.740 When election required. The election required by subsection (3) of ORS 342.720 shall be called whenever an organization has a membership enrollment of at least 40 percent of the total number of classified school employes and whenever such organization requests an election. An election shall also be held whenever a petition is submitted to the district school board signed by 15 percent of the classified personnel requesting that an election be held on whether employes wish to enter into a formal relationship with the board.

[1971 c.582 §4]

342.750 Ballot; effect of election. (1) If a petition is submitted under ORS 342.740, the district school board must call an election within 30 days after the submission of the petition. At any such election, the ballot shall provide for determination as to whether classified personnel wish to be represented by a committee elected by such personnel, or by an organization.

(2) Any organization shall be placed on the ballot if it certifies to the district school board that it has a membership enrollment of at least 40 percent of the classified employes or if it is requested to be placed thereon by a petition containing the signatures of 15 percent of such personnel of the district.

(3) If the election result is representation by an organization, then such organization shall designate the persons who will represent the employes in discussions with the board. If the result is representation by an elected committee of personnel, then the district school board shall establish a procedure for nomination and election of individuals to serve on a committee to confer, consult and discuss in good faith with the board.

[1971 c.582 §5]

342.760 Elected representative's status; new election. The committee or organization elected by the classified personnel of the district shall be the exclusive representative of such personnel in consultation with the district school board. However, a petition signed by 30 percent of the classified personnel may be filed within 15 days after the first day of the school year requesting a new election to

be held to determine the choice of representation. In lieu of the petition, any organization not representing the classified personnel but having a membership enrollment of at least 40 percent of such personnel may request an election. However, no such election shall be held until at least one year after election of any choice of representation and such election must be held within the period specified in subsection (4) of ORS 342.460.

[1971 c.582 §6]

342.770 Mediation and factfinding procedures. (1) A district school board shall adopt a budget calendar in September of each school year. If, 60 days prior to the date programmed in the budget calendar for delivery of the budget message, classified personnel or their representatives have not reached agreement with the district school board over any matters within the scope of the right granted in subsections (1), (2) and (3) of ORS 342.720, mediation shall be invoked. The mediator shall be selected by mutual agreement but if there is no agreement within five days on his selection, the Superintendent of Public Instruction shall be notified by the district school board and shall appoint a mediator from a list of qualified persons compiled and published by him and containing names of mediators and factfinders.

(2) If the mediation does not result in agreement within 10 days of appointment of the mediator, the mediator shall so report and a factfinder shall be appointed by the Superintendent of Public Instruction.

(3) Within 15 days of the time of his appointment, the factfinder shall submit in writing to the board and to the personnel's representatives his report, including a recommendation for a reasonable basis for the settlement of the disagreement.

(4) Consultation may continue during the time that mediation or factfinding is being conducted.

[1971 c.582 §8]

342.780 Agreements to be in writing at request of party; completion date. (1) If requested by either party, agreements reached under the procedures specified in ORS 243.770 and 342.710 to 342.780 shall be in writing.

(2) The procedures specified in ORS 243.770 and 342.710 to 342.780 shall be completed 25 days prior to the date fixed in the budget calendar for delivery of the budget message.

[1971 c.582 §9]

FAIR DISMISSAL LAW

342.805 Short title. ORS 342.200 and 342.805 to 342.955 shall be known as the Fair Dismissal Law.

[1965 c.608 §1; 1971 c.570 §2]

342.815 Definitions for ORS 342.805 to 342.955. As used in ORS 342.200 and 342.805 to 342.955 unless the context requires otherwise:

(1) "Administrator" includes any teacher the majority of whose employed time is devoted to service as a supervisor, principal, vice principal or director of a department or the equivalent in a fair dismissal district but shall not include the superintendent, deputy superintendent or assistant superintendent of any such district or any substitute or temporary teacher employed by such a district.

(2) "Board" means the board of directors of a fair dismissal school district.

(3) "Committee" means the Professional Review Committee created under ORS 342.885.

(4) "District superintendent" means the superintendent of schools of a fair dismissal district or, in his absence, the person designated to fulfill his functions.

(5) "Permanent teacher" means any teacher who has been regularly employed by a fair dismissal district for a period of not less than three successive years, whether or not the district was such a district during all of such period and who has been reelected by such district after the completion of such three-year period for the next succeeding school year.

(6) "Probationary teacher" means any teacher employed by a fair dismissal district who is not a permanent teacher.

(7) "Substitute teacher" means any teacher who is employed to take the place of a probationary or permanent teacher who is temporarily absent.

(8) "Teacher" means any person who holds a teacher's certificate as provided in ORS 342.125 or who is otherwise authorized to teach in the public schools of this state and who is employed on other than a part-time basis in a fair dismissal district of this state as an instructor or administrator.

(9) "Temporary teacher" means a teacher employed to fill a position designated as temporary or experimental or to fill a vacancy which occurs after the opening of school because of unanticipated enrollment

or because of the death, disability, retirement, resignation, or dismissal of a permanent or probationary teacher.

[1965 c.608 §2; 1971 c.570 §12]

342.825 When Fair Dismissal Law effective. ORS 342.200 and 342.805 to 342.955 shall become effective in the districts described at the times specified as follows:

(1) ORS 342.200 and 342.805 to 342.955 shall become effective in those districts in which the provisions of ORS 342.205 to 342.320 (1963 Replacement Part) are in effect on August 13, 1965.

(2) ORS 342.200 and 342.805 to 342.955 shall become effective in any school district at the commencement of the next succeeding school year following a year in which the average daily membership, as defined in ORS 327.006, exceeds 4,500 students in the district.

(3) ORS 342.200 and 342.805 to 342.955 shall become effective with respect to teachers in any school district at the beginning of the school year following the date on which the district is merged into or consolidated with a district which is a tenure district.

[1965 c.608 §3]

342.835 Probationary teacher. (1) The district board of any fair dismissal district may discharge or remove any probationary teacher in the employ of the district at any time during a probationary period for any cause deemed in good faith sufficient by the board. However, the probationary teacher is entitled to meet informally with the board, at the teacher's request, to discuss the cause of dismissal.

(2) The district board may, for any cause it may deem in good faith sufficient, refuse to renew the contract of any probationary teacher. However, the teacher shall be entitled to notice of the intended action by March 15.

[1965 c.608 §4; 1971 c.570 §4]

342.845 Permanent teacher. (1) A permanent teacher shall not be subjected to the requirement of annual appointment nor shall he be dismissed or employed on a part-time basis without his consent except as provided in ORS 342.200 and 342.805 to 342.955.

(2) No permanent teacher who has served as an administrator in a particular position for a period of three successive years in a tenure district shall be transferred to a lower paying position as an administrator or to a nonadministrative position without his consent except for the reasons for

which a permanent teacher may be dismissed as provided in ORS 342.200 and 342.805 to 342.955 and in accordance with the procedures set forth in ORS 342.200 and 342.805 to 342.955 pursuant to which a permanent teacher may be dismissed.

[1965 c.608 §§5, 6]

342.850 Teacher evaluation; form; personnel file; notice. (1) The district superintendent of every common and union high school district having an average daily membership, as defined in ORS 327.006, of more than 500 students in the district shall cause to have made at least annually an evaluation of performance for each teacher employed by the district in order to allow the teacher and the district to measure the teacher's development and growth in the teaching profession. A form shall be prescribed by the State Board of Education and completed pursuant to rules adopted by the district school board. The person or persons making the evaluations must hold teaching certificates. The evaluation shall be signed by the school official who supervises the teacher and by the teacher. A copy of the evaluation shall be delivered to the teacher.

(2) The annual evaluation reports shall be maintained in the personnel files of the district.

(3) The annual evaluation report shall be placed in the teacher's personnel file only after reasonable notice to the teacher. Any explanation relating to the evaluation which the teacher desires to make shall be placed in the personnel file.

(4) The personnel file shall be open for inspection by such teacher but shall be open only to such other persons as are officially designated by the board or by the teacher, in accordance with such rules and regulations as the board shall adopt.

[1971 c.570 §5]

342.855 [1965 c.608 §8; repealed by 1971 c.570 §15]

342.865 Grounds for dismissal of permanent teacher. (1) No permanent teacher shall be dismissed except for:

- (a) Inefficiency;
- (b) Immorality;
- (c) Insubordination;
- (d) Neglect of duty;
- (e) Physical or mental incapacity;
- (f) Conviction of a felony or of a crime involving moral turpitude;
- (g) Inadequate performance;

(h) Failure to comply with such reasonable requirements as the board may prescribe to show normal improvement and evidence of professional training and growth; or

(i) Any cause which constitutes grounds for the revocation of such permanent teacher's teaching certificate.

(2) In determining whether the professional performance of a permanent teacher is adequate, consideration shall be given to regular and special evaluation reports prepared in accordance with the policy of the employing school district and to any written standards of performance which shall have been adopted by the board.

(3) Suspension or dismissal on the grounds contained in paragraph (e) of subsection (1) of this section shall not disqualify the teacher involved for any of the benefits provided in ORS 237.171 to 237.195, 239.233 to 239.239 or 342.595.

[1965 c.608 §9, 19]

342.875 Suspension; reinstatement.

Whenever a district superintendent has reason to believe that cause exists for the dismissal of a permanent teacher on any ground specified in paragraphs (b) to (f) of subsection (1) of ORS 342.865, and when he is of the opinion that immediate suspension of the teacher is necessary for the best interest of education in the district, he may suspend a permanent teacher from his position without prior notice to the teacher. The teacher's salary shall continue during the first five days of the suspension period. However, within five days after such suspension becomes effective, either procedures shall be commenced for the dismissal of the teacher pursuant to the provisions of ORS 342.200 and 342.805 to 342.955 or the teacher must be reinstated.

[1965 c.608 §7; 1971 c.570 §6]

342.885 Professional Review Committee; qualifications; term; vacancy; training.

(1) There hereby is created a Professional Review Committee which shall consist of 33 citizens of recognized scholarship and professional standing, who have been actively and continuously engaged in teaching or in supervision of schools in this state for the five years preceding the appointment, to be appointed by the Superintendent of Public Instruction with the advice and consent of the State Board of Education. Each member of the committee shall be appointed for a term of three years. The Superintendent of

Public Instruction, with the advice and consent of the State Board of Education, shall fill any vacancy which may occur in the committee. The person appointed to fill a vacancy shall serve for the unexpired portion of the term of the member of the committee whom he is appointed to replace.

(2) The Superintendent of Public Instruction shall provide for the committee such training as he considers necessary or desirable for the purpose of enabling the members of the committee to perform the functions required of them under the provisions of ORS 342.200 and 342.805 to 342.955. [1965 c.608 §10]

342.895 Procedure for dismissal of permanent teacher.

(1) Authority to dismiss a permanent teacher is vested in the district school board subject to the provisions of the fair dismissal procedures of ORS 342.200 and 342.805 to 342.955 and only after recommendation of the dismissal is given to the district school board by the superintendent.

(2) At least 20 days before recommending to a board the dismissal of the permanent teacher, the district superintendent shall give written notice to the permanent teacher by certified mail of his intention to make a recommendation to dismiss the teacher. The notice shall set forth the statutory grounds upon which the superintendent believes such dismissal is justified, and shall contain a plain and concise statement of the facts relied on to support the statutory grounds for dismissal. If the statutory grounds specified are those specified in paragraph (a), (c), (d), (g) or (h) of subsection (1) of ORS 342.865, then evidence shall be limited to those allegations supported by statements in the personnel file of the teacher on the date of the notice to recommend dismissal, maintained as required in ORS 342.850. Notice shall also be sent to the district school board and to the Fair Dismissal Appeals Board. Immediately after receipt of the notice, the teacher, the superintendent or the district school board shall be entitled to request the advisory assistance of a panel of the Professional Review Committee by notice to the Superintendent of Public Instruction. A copy of ORS 342.200 and 342.805 to 342.955 shall also be sent to the permanent teacher.

(3) The action of the district superintendent takes effect on the 20th day after notice is given the permanent teacher as required

in subsection (2) of this section, if approved by the district school board. Notice of the board's action shall be given to the permanent teacher by certified mail.

(4) If a request for advisory assistance is made, the Superintendent of Public Instruction who shall immediately designate a panel of three members of the Professional Review Committee to assist the teacher, district superintendent and district school board to resolve the issue. The district superintendent shall supply the panel with a copy of the notice sent to the teacher under subsection (2) of this section.

(5) In all proceedings brought under the provisions of ORS 342.200 and 342.805 to 342.955, the school district by which the permanent teacher is employed shall pay reasonable expenses incurred by the panel, including but not limited to the salaries of substitute teachers provided to replace panel members employed as teachers. However, the school district shall not be required to pay salaries of such substitute teachers for more than an aggregate total of 20 days.

[1965 c.608 §11; 1971 c.570 §7]

342.905 Appeal procedure. (1) If the district school board dismisses the teacher, the teacher may appeal that decision to the Fair Dismissal Appeals Board established under ORS 342.930 by filing with the board within five days after receipt of notice of the district school board's decision, notice of appeal with a brief statement giving the reasons for the appeal.

(2) The Attorney General shall assign one of his assistants to advise the Fair Dismissal Appeals Board, to be present at the formal hearing held by the board, and to perform those tasks at the request of the board that would normally require legal training.

(3) As soon as possible after the time an appeal is filed, the Fair Dismissal Appeals Board shall set a time for the hearing. If the appeal is from a permanent teacher in a teaching position, the board shall include the teacher member. If the permanent teacher is in an administrative position, the administrative member shall sit in place of the teacher member. The board shall be furnished by the Department of Education at the department's expense appropriate professional and other special assistance reasonably required to conduct a hearing and shall be empowered on behalf of the permanent teacher, the district superintendent and the district school board to subpoena and swear witnesses and to require

them to give testimony and to produce books and papers relevant to its hearing.

(4) The Fair Dismissal Appeals Board shall conduct a formal hearing.

(5) When the Fair Dismissal Appeals Board has completed its hearing, it shall prepare a written report and send it to the permanent teacher, the district superintendent, the district school board and the Superintendent of Public Instruction. The report shall contain its finding as to whether or not the facts relied on to support the recommendations of the district superintendent are true and substantiated and if true and substantiated, whether or not they are adequate to justify the statutory grounds cited as reasons for the dismissal. The board shall prepare the report within 30 days from the time of receipt of notice of the appeal. However, when the board finds that because of unusual circumstances justice requires that a greater time be spent, it shall so notify the permanent teacher, the district superintendent, the district school board and the Superintendent of Public Instruction. The extension shall not be beyond 30 days from the date of the notice of extension.

(6) If the Fair Dismissal Appeals Board finds that the facts relied on to support the recommendation of the district superintendent are untrue or unsubstantiated, or if true and substantiated, are not adequate to justify the statutory grounds cited as reason for the dismissal, and so notifies the permanent teacher, the district superintendent, the district school board and the Superintendent of Public Instruction, the teacher shall be reinstated and the teacher shall receive his salary for the period between the effective date of the dismissal and the date of the order reinstating him. If the teacher was suspended prior to the effective date of dismissal, he shall also receive his salary for the uncompensated period of the suspension.

(7) If the Fair Dismissal Appeals Board finds the facts relied on to support the recommendation of the district superintendent true and substantiated, and that those facts justify the statutory grounds cited as reason for the dismissal and so notifies the permanent teacher, the district superintendent, the district school board and the Superintendent of Public Instruction in writing, the dismissal becomes final on the date of the notice.

(8) Nothing in ORS 342.200 and 342.805 to 342.955 precludes a permanent teacher or a district school board from obtaining a writ

of review as provided in ORS 34.010 to 34.100 after a hearing pursuant to this section for the purpose of reviewing the findings and order, if any, of the Fair Dismissal Appeals Board.

[1965 c.608 §12; 1971 c.570 §8]

342.915 Hearing procedure. The following provisions shall be applicable to any hearing conducted pursuant to ORS 342.905:

(1) The hearing shall be private unless the permanent teacher requests a public hearing.

(2) The hearing shall be conducted in accordance with rules and regulations adopted by the Fair Dismissal Appeals Board pursuant to ORS chapter 183.

(3) At the hearing the permanent teacher shall have the right to be present and to be heard, to be represented by counsel and to present through witnesses any competent testimony relevant to the issue of whether facts as found by the Fair Dismissal Appeals Board and as relied on to support the recommendation of the district superintendent are true and substantiated and whether those facts justify the statutory grounds cited as reason for the dismissal and whether the procedures required by law have been followed.

[1965 c.608 §13; 1971 c.570 §9]

342.925 [1965 c.608 §14; repealed by 1971 c.570 §15]

342.930 Fair Dismissal Appeals Board; appointment; confirmation; term; compensation and expenses; officers; quorum. (1) A Fair Dismissal Appeals Board is created, consisting of four members appointed by the Governor, subject to confirmation by the Senate as provided in ORS 171.560 and 171.570. One member shall be an administrator in a common or union high school district, one member shall be a permanent teacher, one member shall be a member of a common or union high school district board and one member shall not be affiliated with any common or union high school district.

(2) The term of office of each member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(3) Members shall be entitled to \$20 for each day or part thereof during which they perform duties under ORS 342.200, 342.805, 342.815, 342.835, 342.850, 342.875, 342.895 to 342.915 and this section and necessary travel expenses as authorized by state law, such compensation and expenses to be paid by the district school board from which the appeal is taken.

(4) The board shall select one of its members as chairman and another as vice chairman, for such terms and with duties and powers necessary for the performance of the functions of such offices as the board determines.

(5) A majority of the members of the board constitutes a quorum for the transaction of business.

[1971 c.570 §10]

342.935 [1965 c.608 §15; repealed by 1971 c.570 §15; see ORS 342.960]

342.945 [1965 c.608 §16; repealed by 1971 c.570 §15]

342.955 Compulsory retirement; service from year to year; substitute teacher.

(1) Notwithstanding the provisions of ORS 342.805 to 342.845, 342.865 to 342.915 and 342.960, a teacher may be retired on July 1 next following the date on which he reaches the age of 65. However, upon written recommendation of the district superintendent that continued service by the teacher who has reached 65 years of age is in the public interest and upon approval of the board, a teacher may be continued in service for successive periods of one year each after reaching the compulsory retirement age.

(2) Nothing in this section shall be construed to prevent a board from employing a retired teacher for not more than 600 hours in any calendar year as a substitute teacher.

[1965 c.608 §17]

342.960 Evidence; record; subpoenas; findings; order. (1) If the panel does not find that the grounds for the recommendation of the district superintendent are true and substantiated, at the hearing the board shall determine whether the grounds for the recommendation of the district superintendent are true and substantiated upon the basis of competent evidence adduced at the hearing by witnesses who shall testify under oath or affirmation to be administered by any board member or the clerk of the board.

(2) The procedure at the hearing shall be such as to permit and secure a full, fair and

orderly hearing and to permit all relevant competent evidence to be received therein. The report of the panel of the committee shall be deemed to be competent evidence. A full record shall be kept of all evidence taken or offered at such hearing. Both counsel for the district and the permanent teacher or his counsel shall have the right to cross-examine witnesses.

(3) At the request of either the district superintendent or the permanent teacher, the board shall subpoena any witness residing within the state to appear at the hearing and testify. Subpenas for witnesses to testify at the hearing in support of the recommendation of the district superintendent or on behalf of the permanent teacher shall, as requested, be issued in blank by the board over the signature of its chairman or clerk. The witnesses shall be entitled to receive the same mileage and per diem as witnesses called in civil cases in the state, but the board shall not be accountable for the witness fees of more than 10 witnesses subpoenaed on behalf of the permanent teacher. Witnesses 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 162.065.

(4) At the conclusion of the hearing provided in this section, the board shall render its decision on the evidence submitted at such hearing and not otherwise.

(5) The findings and the order of the board following the hearing shall be in writing and a copy shall be served upon the permanent teacher. A record of the proceedings shall be made available without charge for the use of the permanent teacher in the event he wishes to appeal to the circuit court.
[1971 c.743 §359; see ORS 342.935]

GENERAL PROVISIONS

342.965 Interchange of teachers. A district school board may provide for the inter-

change of teachers with school districts of other states or countries. Teachers exchanged shall teach one year, the year's service outside the state being credited to them as service 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 from outside of Oregon shall be paid by the school districts in their respective states or countries.
[Formerly 342.510]

342.970 Discrimination on account of sex or blindness forbidden. In the employment of teachers, district school boards shall not discriminate:

(1) Between male and female teachers. For the same service district school boards shall pay female teachers the same compensation paid to male teachers, taking into consideration the years of successful teaching experience in the districts where the teachers are employed.

(2) Against blind teachers having all other qualifications required of a teacher.
[Formerly 342.520]

342.975 "Training school" defined. As used in ORS 342.980, "training school" means a school in which the pupils are taught either wholly or in part by students of a standard teacher education institution as defined in ORS 342.120.
[Formerly 342.560]

342.980 Student teacher; authority to teach; contract requirements and effect. Any student of a standard teacher education institution approved by the state board under ORS 342.120, who is assigned to teach in a training school has full authority to teach during the time the student is so assigned, and such assignment has the same effect as if the student were the holder of a valid teaching certificate.

[Formerly 342.575; amended by 1967 c.67 §15]

342.990 [Repealed by 1965 c.100 §456]

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, 1971.

Robert W. Lundy
Legislative Counsel

