

# Chapter 342

## 1979 REPLACEMENT PART

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**342.090** [Repealed by 1965 c.100 §456]

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## TEACHER CERTIFICATION

**342.120 Definitions for ORS 342.120 to 342.200, 342.505, 342.553, 342.596, 342.598, 342.601 to 342.608 and 342.610 to 342.663.** As used in ORS 342.120 to 342.200, 342.505, 342.553, 342.596, 342.598, 342.601 to 342.608 and 342.610 to 342.663, unless the context requires otherwise:

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

(2) "Approved teacher education institution" is one which meets the standards of the

Teacher Standards and Practices Commission for preparation of teachers for grades preprimary through 12.

(3) "Approved teacher education program" is one offered by an approved teacher education institution and is so recognized by the Teacher Standards and Practices Commission, after considering recommendations of the state board.

(4) "Commission" means the Teacher Standards and Practices Commission.

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

(6) "Intern teacher" means a regularly enrolled student of an approved teacher education institution 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 or education service district.

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

(8) "Teacher" includes all certificated employes in the public schools or employed by an education service district who have direct responsibility for instruction, coordination of educational programs or supervision or evaluation of teachers and who are compensated for their services from public funds.

(9) "Teacher aide" means a noncertificated person employed by a school district or education service district whose assignment consists of and is limited to assisting a certificated teacher in accordance with rules established by the State Board of Education.

(10) "Teaching certificate" means a certificate issued under ORS 342.125. [1961 c.439 §1; 1965 c.100 §348; 1965 c.550 §1; 1973 c.270 §2; 1975 c.278 §1]

**342.123 Knowledge of civil rights laws required.** In addition to and not in lieu of any other law or rule or standard established by the Teacher Standards and Practices Commission, the commission shall require that after September 1, 1978, an applicant for a teaching certificate or any renewal thereof demonstrate knowledge of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and federal statutes

pertaining thereto, as well as state statutes prohibiting discrimination. [1977 c.805 §2]

**342.125 Types of certificates.** (1) Teaching certificates shall be issued and renewed by the Teacher Standards and Practices Commission by the authority of the State of Oregon, subject to ORS 342.120 and 342.125 to 342.173 and the rules of the commission.

(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 Teacher Standards and Practices Commission, 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; 1973 c 270 §3]

**342.126 First aid card required for teaching certificate.** In addition to and not in lieu of any other requirement, the Teacher Standards and Practices Commission shall require all applicants for a teaching certificate to hold a recognized first aid card. [1977 c.826 §2]

**342.127 Fees.** (1) The Teacher Standards and Practices Commission shall establish and the commission 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 commission 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 commission during any biennium.

(3) In addition to the fee required by subsection (1) of this section for the issuance or renewal of a teaching certificate, the Teacher Standards and Practices Commission shall collect a fee of \$3 for each such issuance or renewal. However, the commission 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. [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; 1973 c.270 §4]

**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 preprimary through grade 12 for which he has completed the professional requirements established by the rules of the Teacher Standards and Practices Commission.

(2) A basic teaching certificate shall be issued on application to an otherwise qualified person who has completed an approved teacher education program and meets such other requirements as the Teacher Standards and Practices Commission 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 Teacher Standards and Practices Commission to teach in the regular classroom program of the public schools, kindergarten through grade nine, may renew the basic certificate to qualify them to continue in such teaching by verification of successful teaching experience in keeping with Teacher Standards and Practices Commission rules and without requirement of additional educational preparation.

(b) Secondary teachers may teach in the public schools, grades 5 through 12, in those subject fields in which they have met the requirements of the Teacher Standards and Practices Commission.

(3) (a) A standard teaching certificate shall be issued on application to an otherwise qualified person who has completed an ap-

proved teacher education program, has taught on a basic teaching certificate for a minimum period of time to be determined by the Teacher Standards and Practices Commission, and is recommended for certification by the approved teacher education institution or the school district, whichever offered the program.

(b) Preparation shall be a planned education program consisting of courses taken in an approved teacher education institution or in an in-service training program offered by a school district for which credit is given by an approved teacher education institution or some combination of both, in accordance with rules of the Teacher Standards and Practices Commission.

(4) The Teacher Standards and Practices Commission 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; 1973 c.270 §5]

**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 Teacher Standards and Practices Commission.

(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 Teacher Standards and Practices Commission may establish. [1961 c.439 §5, 1965 c.100 §355; 1973 c.270 §6]

**342.143 Qualifications for teaching certificate.** (1) No teaching certificate shall be issued to any person until the person has attained the age of 18 years and has furnished satisfactory evidence of proper educational training.

(2) The Teacher Standards and Practices Commission may also require an applicant for a teaching certificate to furnish evidence satisfactory to the commission of good moral character, mental and physical health, and such other evidence as it may deem necessary to establish the applicant's fitness to serve as a teacher.

(3) Without limiting the powers of the Teacher Standards and Practices Commission under subsection (2) of this section:

(a) No teaching certificate shall be issued to any person who after August 20, 1957, has been convicted of a crime listed in ORS 163.355, 163.365, 163.375, 163.385, 163.395, 163.405, 163.415, 163.425, 163.435, 163.445, 163.455, 163.465, 163.515, 163.525, 163.575, 167.007, 167.012, 167.017, 167.065, 167.070, 167.075 or 167.080.

(b) The Teacher Standards and Practices Commission may refuse to issue a certificate to any person who has been convicted of a crime involving the illegal use, sale or possession of controlled substances. [1965 c.100 §352; 1971 c.743 §357; 1973 c.270 §7; 1979 c.744 §14]

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

**342.147 Approval of teacher education institutions and programs.** (1) After considering recommendations of the state board, the Teacher Standards and Practices Commission shall establish by rule standards for approval of teacher education institutions and teacher education programs.

(2) Whenever any teacher education institution or program is denied approved status or has such status withdrawn such denial or withdrawal must be treated as a contested case within the meaning of ORS 183.310 to 183.500. [1973 c.270 §19]

**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 Commission rules.** (1) Pursuant to ORS 183.310 to 183.500, the Teacher Standards and Practices Commission shall make rules necessary for the issuance, denial, continuation, renewal, lapse or reinstatement of certificates issued under the provisions of ORS 342.120 to 342.200. The commission shall also adopt rules establishing means in addition to those prescribed by law whereby teachers are able to add additional indorsement to their teaching certificates.

(2) In establishing rules under subsection (1) of this section and under ORS 342.147, the

Teacher Standards and Practices Commission 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 state board and Superintendent of Public Instruction; and

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

(3) Whenever any applicant is denied certification such denial must be treated as a contested case within the meaning of ORS 183.310 to 183.500.

(4) The Teacher Standards and Practices Commission shall notify the State Board of Education of proposed rules and shall actively solicit their advice before adoption of the rules. [1961 c.439 §10; 1965 c.100 §359; 1965 c.535 §10; 1973 c.270 §8; 1979 c.307 §1]

**342.167 State board review of rule or standard of commission.** (1) Within 60 days after receiving notice from the Teacher Standards and Practices Commission of adoption of a rule or standard, the state board on its motion or upon request shall review the rule or standard adopted under ORS 342.147 or under 342.165 to determine if the rule or standard serves the public interest.

(2) The review held under subsection (1) of this section shall be heard in the manner provided in ORS 183.310 to 183.500.

(3) Where the State Board of Education finds pursuant to its review as held under subsection (2) of this section that the rule or standard reviewed is not in the public interest, the state board shall request the commission to set aside or amend the rule or standard. [1973 c 270 §20]

**Note:** 342.167 was enacted into law by the Legislative Assembly but was not added to or made a part of 342.120 to 342.190 by legislative action. See the Preface to Oregon Revised Statutes for further explanation

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

**342.173 Effect of employing noncertificated teacher or nurse by certain districts.** (1) Any school district or education service district which employs as a teacher, school nurse, as defined in ORS 678.505, or administrator any person not properly certificated and assigned in accordance with the terms specified by the person's certificate shall forfeit in state basic school support funds due the district an amount determined by the Teacher Standards and Practices Commission to not exceed the amount of the salary paid to the person for the time during which the person is employed. The forfeiture shall be effective unless such assignments are made with justification satisfactory to the Teacher Standards and Practices Commission.

(2) No school district shall be required under subsection (1) of this section to forfeit basic school support funds due the district solely for the reason that the certificate has lapsed during the time of employment with the district if the holder had at the time the certificate expired all the qualifications necessary to renew the certificate and application is made within 30 days after the district determines that the certificate has expired. [1965 c.100 §353; 1975 c.278 §2; 1977 c.635 §10; 1979 c.307 §2]

**342.174 Employment of noncertificated teacher by certain state institutions prohibited.** No state correctional institutions, juvenile training schools and camps as defined in ORS 420.005 and institutions for mentally deficient as listed in ORS 427.010 shall employ persons regularly as teachers who are not certificated. [1975 c.278 §7]

**Note:** 342.174 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 342 or any series therein by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

**342.175 Grounds for revocation or suspension of certificate; reinstatement.**

(1) Action to suspend or revoke any certificate or to discipline a teacher or administrator may be initiated by the Teacher Standards and Practices Commission, created under ORS 342.350 upon complaint charging the teacher or administrator with:

(a) Conviction of a crime not listed in subsection (2) of this section;

(b) Gross neglect of duty;

(c) Any gross unfitness; or

(d) Having been convicted of violating any law of this or any state or of the United States involving the illegal use, sale or possession of controlled substances.

(2) The Teacher Standards and Practices Commission shall revoke any certificate when the holder after August 20, 1957, has been convicted of a violation of ORS 163.355, 163.365, 163.375, 163.385, 163.395, 163.405, 163.415, 163.425, 163.435, 163.445, 163.455, 163.465, 163.515, 163.525, 163.575, 167.007, 167.012, 167.017, 167.065, 167.070, 167.075 or 167.080.

(3) The Teacher Standards and Practices Commission may revoke any certificate upon evidence that the holder knowingly made any false statement in the application for the certificate.

(4) Any person whose certificate has been suspended or revoked on grounds stated in subsection (1) or (3) of this section may apply to the commission for reinstatement of the certificate after one year from the date of the suspension or revocation. A certificate revoked under subsection (2) of this section is subject to reinstatement upon petition to the commission filed after expiration of the sentence or parole or probationary period imposed upon conviction, whichever is the shorter. The commission may require an applicant for reinstatement to furnish evidence satisfactory to the commission of good moral character, mental and physical health, and such other evidence as the commission may deem necessary to establish the applicant's fitness.

(5) Violation of standards adopted by the commission relating to competent and ethical performance of professional duties shall be admissible as evidence of gross neglect of duty or gross unfitness.

(6) A copy of the record of conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence of a conviction described in this section. [Formerly 342.070; 1965 c.100 §361; 1971 c.743 §358; 1973 c.228 §1; 1979 c.226 §1; 1979 c.226 §1; 1979 c.307 §3a]

**342.176 Preliminary investigation of complaint; notice whether hearing justified.** Upon receipt of the complaint under ORS 342.175, the staff of the commission shall promptly undertake a preliminary investigation of the facts on which the complaint is based. The results of the preliminary investigation shall be reported to the commission at its next regular meeting following completion of the investigation. If the commission finds

from the report that there is sufficient evidence to justify holding a hearing under ORS 342.177 on the grounds stated in ORS 342.175, it shall notify in writing the teacher or administrator against whom a complaint has been made, inclose a statement of the charges based on the complaint and preliminary investigation and set a date for a hearing. It shall also notify in writing the complainant and the employing district. If the commission finds that there is insufficient or no evidence to justify a hearing, the commission shall notify in writing the teacher or administrator, the complainant and the employing district of its finding. [1979 c.226 §2]

**342.177 Hearing and decision on charges.** (1) Prior to the hearing, but after the preliminary investigation and finding of justification under ORS 342.176, the Teacher Standards and Practices Commission may cause an investigation of the facts involved in the charge to be made by examiners 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 examiners shall be furnished appropriate professional and other special assistance reasonably required to conduct their investigation, shall be empowered to subpoena and swear witnesses and shall report in writing their findings and recommendations to the Teacher Standards and Practices Commission and to the teacher or administrator against whom the charge is made.

(2) The hearing may be before the commission or may be before three or more members thereof, designated by the commission. A member or a hearing officer, either of whom is appointed by the commission, shall preside at hearings. The hearing shall be private unless the teacher or administrator against whom the charge is made requests a public hearing. Students attending school in the district which employs the teacher or administrator 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.

(3) Within 20 days after the hearing, the Teacher Standards and Practices Commission shall render its decision, taking into consider-

ation the findings and recommendations of the examiners authorized by subsection (1) of this section, if any, and the evidence presented at the hearing. If the decision of the commission is that the charge described in subsection (1) of ORS 342.175 has been proven, the commission may take any or all of the following disciplinary action against the person charged:

- (a) Issue a public reprimand.
- (b) Place the administrator or teacher on probation for a period not to exceed one year.
- (c) Suspend the certificate of the teacher or administrator for a period not to exceed one year.
- (d) Revoke the certificate of the teacher or administrator.
- (4) If the decision of the commission is that the charge is not proven, the commission shall order the charges dismissed.

(5) The commission shall notify in writing the teacher or administrator, the school district by which the teacher or administrator is employed and the Superintendent of Public Instruction of the decision. [1965 c.100 §363; 1965 c.535 §11; 1973 c.228 §2; 1979 c.226 §3]

**342.180 Appeal.** (1) Any person whose certificate has been suspended or revoked or who has been disciplined, or who has been refused issuance or reinstatement of a certificate, and is aggrieved at the decision of the commission, may appeal in the manner provided in ORS 183.480.

(2) If the Superintendent of Public Instruction or the district school board employing the teacher or administrator is aggrieved at the decision of the commission, either or both may appeal from the decision in the manner provided in ORS 183.480.

(3) Unless the decision of the commission is accompanied by a finding that immediate suspension or revocation of the teaching certificate is necessary to protect the safety and well-being of students, an appeal made under this section in a proceeding to suspend or revoke shall operate as a stay of the suspension or revocation, if any, until the determination of the appeal. [Formerly 342.075, 1965 c.100 §364; 1973 c.228 §3]

**342.185** [1961 c 677 §3; 1965 c.100 §365; repealed by 1973 c 228 §10]

**342.190 Administrative Procedure Act not applicable to proceedings for reinstatement, revocation or suspension.**

Except as otherwise specifically provided, ORS 183.310 to 183.500 do not apply to proceedings under ORS 342.175, 342.177 and 342.180. [1961 c.677 §4; 1965 c.100 §366; 1973 c.228 §4]

**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 Teacher Standards and Practices Commission 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 preprimary through 12 in subjects regularly taught in public schools if he either:

(1) Has completed an approved teacher education program; 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; 1973 c.270 §9]

**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 Teacher Standards and Practices Commission, 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; 1973 c.270 §10]

**342.203 Circulation of list of teachers and administrators subjected to discipline.** (1) Annually not later than March 1, the Teacher Standards and Practices Commission shall cause to be circulated among all of the common and union high school districts in this state a list of all teachers and administrators whose teaching certificates have been

suspended or revoked or who have been reprimanded or placed on probation during the preceding 12 months.

(2) If the decision of the commission is appealed, the teacher's or administrator's name shall not be placed on the list authorized by subsection (1) of this section unless and until such decision has been sustained by the Court of Appeals or until the appeal has been dropped. [1973 c.228 §5]

**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 and is currently employed in a capacity which requires the holding of such 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 and who is currently employed in a position which requires the holding of such certificate, but does not require holding an administrative certificate. [1965 c.535 §1; 1975 c.278 §3]

**342.350 Commission established; confirmation; term; vacancy; effect of change in circumstances.** (1) There is created a Teacher Standards and Practices Commission consisting of 17 members appointed by the Governor subject to confirmation by the Senate in the manner provided in ORS 171.560 and 171.570.

(2) The term of office of a member is three years. Before the expiration of the term of a member, the Governor shall appoint a successor to assume the 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 Governor shall make an appointment to become immediately effective for the unexpired term.

(3) Any member who through change of employment standing or other circumstances no longer meets the criteria for the position to which the member was appointed shall no longer be eligible to serve in that position, and the position on the commission shall become vacant 60 days following the member's change in circumstances. [1965 c.535 §2; 1973 c.270 §11; 1975 c.278 §4; 1979 c.307 §4]

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

(a) Four elementary teachers;

(b) Four junior or senior high school teachers;

(c) One elementary school administrator;

(d) One junior or senior high school administrator;

(e) One superintendent of city schools;

(f) One county superintendent or a superintendent employed by an education service district board;

(g) One member from the faculty of an approved private teacher education institution in Oregon;

(h) One member from the faculty of a state institution of higher education;

(i) One member who is also a member of a district school board; and

(j) Two members of the general public.

(2) Except for those members appointed under paragraphs (i) and (j) of subsection (1) of this section, 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. In addition, members appointed under paragraphs (a) to (f) of subsection (1) of this section must hold valid Oregon teaching certificates other than restricted teaching certificates. [1965 c.535 §3; 1973 c.270 §12; 1975 c.278 §5; 1979 c.307 §5]

**342.370** [1965 c.535 §5; 1975 c.278 §6; repealed by 1979 c.307 §8]

**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.** The commission shall perform duties required under ORS 342.120 to 342.200. In carrying out its duties, the commission may enter into contracts with other states under the Interstate Certification Project. [1965 c.535 §9; 1973 c.270 §13; 1979 c.307 §6]

**342.410 Executive secretary; employees.** The commission shall appoint a qualified person as executive secretary and may, subject to the State Merit System Law, employ persons to provide such service as the commission shall require. [1965 c.535 §12; 1973 c.270 §14]

**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 Teacher Standards and Practices Commission shall pay into the State Treasury all moneys received under 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 its administrative expenses. [1965 c.535 §15; 1967 c.637 §8; 1973 c.270 §15]

**342.435 Commission shall honor school nurse certification.** The Teacher Standards and Practices Commission shall honor certification by the Oregon State Board of Nursing for a school nurse who meets the requirements for certification as a school nurse issued under ORS 678.380 and subsections (1) to (3) of 678.515. [1977 c.635 §8]

**342.440** [1971 c.755 §2, repealed by 1973 c.536 §39]

**342.445 Commission to consult with and advise Oregon State Board of Nursing on school nursing.** The Teacher Standards and Practices Commission shall consult with and advise the Oregon State Board of Nursing on the qualifications and practices involved in school nursing. [1977 c.635 §9]

**342.450** [1965 c.390 §1; 1969 c.647 §1; repealed by 1973 c 536 §39]

**342.460** [1965 c 390 §§2, 3; 1969 c.647 §2; 1971 c 755 §3, repealed by 1973 c 536 §39]

**342.470** [1965 c 390 §4; 1969 c.647 §3; 1971 c.755 §4; repealed by 1973 c.536 §39]

**342.480** [1971 c.755 §5, repealed by 1973 c.536 §39]

## EMPLOYMENT 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** [1957 c 446 §1; 1965 c 100 §368; 1965 c.608 §20, repealed by 1973 c.298 §9]

**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 of the renewal or nonrenewal of the contract for the following school year by April 1 of each year to all teachers and administrators in its employ who are not permanent teachers. 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 April 1, 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 15 of acceptance or rejection of the position for the following school year. [Formerly 342.635; 1975 c.770 §47; 1979 c.714 §1]

**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** [Amended by 1965 c.100 §370; 1967 c.324 §1; 1969 c.84 §1; repealed by 1973 c.298 §9]

**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 342.596 shall be sufficient reason for the school board to place the teacher on leave without pay for the remainder of the regular school year and to terminate the teacher's employment without penalty on August 1 if the school board determines that the teacher is unable to resume teaching responsibilities at the beginning of the next fall term. 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; 1977 c.860 §2; 1979 c.269 §1]

**342.550** [Repealed by 1965 c.100 §456]

**342.553 Resignation in violation of contract.** (1) Any elementary or secondary teacher who has entered into a contract to teach in any public school and who resigns his position without first providing 60 days' written notice to the district superintendent or the notice required in the applicable collective bargaining agreement may have his teaching certificate suspended for the remainder of the school year by the Teacher Standards and Practices Commission upon notice of the resignation from the district school board to the commission. The commission 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 Teacher Standards and Practices Commission within 20 days after the date of the notice of the suspension. The notice of appeal must be in writing and sent to the Teacher Standards and Practices Commission not later than one day following the 20-day period. The Teacher Standards and Practices Commission 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 Teacher Standards and Practices Commission is final.

(3) If an appeal is made to the Teacher Standards and Practices Commission, suspension of the teaching certificate shall be stayed until the Teacher Standards and Practices Commission reaches a decision. [Formerly 342.645; 1975 c.258 §1]

**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]

**342.595** [Amended by 1953 c.392 §2; 1961 c.357 §1; 1963 c.211 §1; 1965 c.100 §375; 1975 c.431 §1; repealed by 1977 c.860 §5]

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

(a) "School employe" includes all employes of a public school district or an education service district.

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

(2) Each district shall allow each school employe at least 10 days' sick leave at full pay for each school year or one day per month employed, whichever is greater.

(3) At the option of the local governing 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 for an unlimited number of days. A local governing board is required to permit a school employe to take up to 75 days sick leave accumulated in other Oregon districts. The accumulation shall not exceed that carried by the most recent employing district. However, the transfer of sick leave from another Oregon district shall not be effective until the school employe has completed 30 working days in the new district.

(5) For purposes of determining retirement benefits, a local governing board is required to permit a school employe to transfer an unlimited number of days of unused accumulated sick leave from another Oregon district employer. [1957 c.457 §1; 1963 c.122 §1; 1965 c.100 §376; 1965 c.183 §1; 1977 c.860 §3]

**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.

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(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]

**342.599 Inservice first aid training credit for first aid.** A school district employing a teacher who holds a recognized first aid card and who undergoes training to cause the renewal thereof shall receive inservice training credit from the district for such training.

[1977 c.826 §3]

**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 education service district, or of the administrative school district which includes the entire county.

(2) In a common or union high school district with fewer than 1,000 children in average daily membership:

(a) All teachers and administrators shall register their teaching certificates and administrative 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 or administrative 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 in average daily membership 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); 1975 c.278 §8; 1975 c. 770 §48a]

**342.602** [Formerly 342.065; 1965 c.100 §379; repealed by 1973 c.458 §3]

**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 342.865.

(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]

**342.609 Opportunity to assist Non-English speaking students at no cost.** (1) All school districts providing courses pursuant to ORS 336.079 shall afford the certificated personnel of that district that are assigned to perform teaching duties for such courses an opportunity to qualify to assist non-English speaking students to learn English at no cost to the personnel.

(2) Nothing in this section prevents a district from employing certificated personnel who are qualified to teach courses under ORS 336.079. [1977 c.137 §1]

**342.610 Minimum salary for substitute teachers.** (1) Teachers employed as substitute teachers shall not be paid less per day than 75 percent of 1/190th of the salary of a beginning teacher who holds a bachelor's degree. The salary of the substitute teacher shall be computed as required in this subsection based on the state-wide average salary for beginning teachers who hold bachelors' degrees. The Department of Education shall compute the state-wide average salary to be used for purposes of this subsection, using the latest data available to the department, but not data from earlier than the preceding school year.

(2) Notwithstanding subsection (1) of this section, teachers employed as substitute teachers for more than 10 consecutive school days in any one assignment for the same teacher shall not be paid after the 10th day of the assignment less per day than 100 percent of 1/190th of the state-wide average salary computed in subsection (1) of this section for districts with no salary scale; or, for districts with a salary scale, 1/190th of the employing school district's salary for a beginning teacher who holds a bachelor's degree.

(3) Subsection (1) or (2) of this section does not apply to substitute teachers represented in a bargaining unit in the school district by which they are employed. [Amended by 1955 c 130 §1, 1957 c 262 c.1; 1965 c.100 §377, 1967 c 625 §1; 1971 c 536 §1; 1977 c.531 §1, 1979 c.167 §1]

**Note:** The amendment to 342.610 by section 1, chapter 167, Oregon Laws 1979, takes effect July 1, 1980. See section 2, chapter 167, Oregon Laws 1979. 342.610

(1977 Replacement Part) is set forth for the users' convenience.

**342.610** (1) Teachers employed as substitute teachers shall not be paid less per day than 75 percent of 1/190th of the salary of a beginning teacher who holds a bachelor's degree. The salary of the substitute teacher shall be computed as required in this subsection based on the state-wide average salary for beginning teachers who hold bachelors' degrees. The Department of Education shall compute the state-wide average salary to be used for purposes of this subsection, using the latest data available to the department, but not data from earlier than the preceding school year.

(2) Subsection (1) of this section does not apply to substitute teachers represented in a bargaining unit in the school district by which they are employed

**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; 1967 c 67 §12]

**342.615** [Amended by 1965 c 100 §386, repealed by 1979 c.166 §1]

**342.620** [Repealed by 1979 c 166 §1]

**342.625** [Repealed by 1979 c.166 §1]

**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]

**342.710** [1971 c.582 §1; repealed by 1973 c.536 §39]

**342.720** [1971 c.582 §§2, 7; repealed by 1973 c.536 §39]

**342.730** [1971 c.582 §3; repealed by 1973 c.536 §39]

**342.740** [1971 c.582 §4; repealed by 1973 c.536 §39]

**342.750** [1971 c.582 §5; repealed by 1973 c.536 §39]

**342.760** [1971 c.582 §6; repealed by 1973 c.536 §39]

**342.770** [1971 c.582 §8; repealed by 1973 c.536 §39]

**342.780** [1971 c.582 §9; repealed by 1973 c.536 §39]

## FAIR DISMISSAL LAW

**342.805 Short title.** ORS 342.805 to 342.955 shall be known as the Fair Dismissal Law. [1965 c.608 §1; 1971 c.570 §2; 1977 c.881 §1]

**342.815 Definitions for ORS 342.805 to 342.955.** As used in ORS 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) "District superintendent" means the superintendent of schools of a fair dismissal district or, in the absence of the superinten-

dent, the person designated to fulfill the superintendent's functions.

(4) "Permanent teacher" means any teacher who has been regularly employed by a fair dismissal district for a period of not less than three successive school 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.

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

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

(7) "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 half time or more as an instructor or administrator.

(8) "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; 1977 c.880 §1; 1977 c.881 §2; 1979 c.668 §1]

**342.825** [1965 c.608 §3; 1973 c.298 §1; repealed by 1977 c.881 §8]

**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. The probationary teacher shall be given a written copy of the reasons for dismissal, and upon request shall be provided a hearing thereon by the board, at which time the probationary teacher shall have the opportunity to be heard either in person or by a representative of the teacher's choice.

(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 April 1, and upon request shall be provided a hearing before the district board. Upon request from

the probationary teacher the board shall provide the probationary teacher a written copy of the reasons for the nonrenewal, which shall provide the basis for the hearing.

(3) If an appeal is taken from any hearing, the appeal shall be limited to:

(a) The procedures at the hearing;

(b) Whether the written copy of reasons for dismissal required by this section was supplied; and

(c) In the case of nonrenewal whether notice of nonrenewal was timely given. [1965 c.608 §4; 1971 c.570 §4; 1975 c.727 §1; 1979 c.714 §2]

**342.845 Permanent teacher; permanent part-time 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 342.805 to 342.955.

(2) Notwithstanding subsection (1) of this section, a part-time permanent teacher attains permanent status at not less than half time but less than full time and may be assigned within those limits by the school district. The assignment of a permanent part-time teacher is not subject to the procedures specified in ORS 342.805 to 342.930. A permanent part-time teacher who accepts a full-time assignment shall be considered a permanent teacher for purposes of the assignment.

(3) No permanent teacher who has served as an administrator in a particular position for a period of three successive years 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 342.805 to 342.955 and in accordance with the procedures set forth in ORS 342.805 to 342.955 pursuant to which a permanent teacher may be dismissed. [1965 c.608 §§5, 6; 1977 c.880 §2]

**342.850 Teacher evaluation; form; personnel file content.** (1) The district superintendent of every school district, including superintendents of education service districts, shall cause to have made at least annually but with multiple observations an evaluation of performance for each probationary teacher employed by the district and at least biennially for any other teacher. The purpose of the evaluation is to allow the teacher and the district to determine the teacher's development and growth in the teaching profession

and to evaluate the performance of the teaching responsibilities. A form for teacher evaluation shall be prescribed by the State Board of Education and completed pursuant to rules adopted by the district school board.

(2) (a) The district school board shall develop an evaluation process in consultation with school administrators and with teachers. If the district's teachers are represented by a local bargaining organization, the board shall consult with teachers belonging to and appointed by the local bargaining organization in the consultation required by this paragraph.

(b) The district school board shall implement the evaluation process that includes:

(A) The establishment of job descriptions and performance standards which include but are not limited to items included in the job description;

(B) A preevaluation interview which includes but is not limited to the establishment of performance goals for the teacher, based on the job description and performance standards;

(C) An evaluation based on written criteria which include the performance goals; and

(D) A post-evaluation interview in which (i) the results of the evaluation are discussed with the teacher and (ii) a written program of assistance for improvement, if needed, is established.

(c) Nothing in this subsection is intended to prohibit a district from consulting with any other individuals.

(3) Except in those districts having an average daily membership, as defined in ORS 327.006, of fewer than 200 students, 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.

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

(5) The evaluation report shall be placed in the teacher's personnel file only after reasonable notice to the teacher.

(6) A teacher may make a written statement relating to any evaluation, reprimand, charge, action or any matter placed in the teacher's personnel file and such teacher's statement shall be placed in the personnel file.

(7) The personnel file shall be open for inspection by the teacher, the teacher's designees and the district school board and its designees. District school boards shall adopt rules governing access to personnel files, including rules specifying whom school officials may designate to inspect personnel files.

[1971 c.570 §5; 1973 c.298 §3; 1973 c.458 §1; 1977 c.881 §3, 1979 c.598 §1; 1979 c.668 §2a]

**Note:** The amendment to 342.850 by section 1, chapter 598, Oregon Laws 1979, takes effect July 1, 1980. See section 2, chapter 598, Oregon Laws 1979 342.850 as amended by section 2, chapter 668, Oregon Laws 1979, is set forth for the users' convenience.

**342.850.** (1) The district superintendent of every school district, including superintendents of education service districts, 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 determine the teacher's development and growth in the teaching profession and the performance of the teaching responsibilities. A form shall be prescribed by the State Board of Education and completed pursuant to rules adopted by the district school board. Except in those districts having an average daily membership, as defined in ORS 327.006, of fewer than 200 students, 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.

(4) A teacher may make a written statement relating to any evaluation, reprimand, charge, action or any matter placed in the teacher's personnel file and such teacher's statement shall be placed in the personnel file.

(5) The personnel file shall be open for inspection by the teacher, the teacher's designees and the district school board and its designees. District school boards shall adopt rules governing access to personnel files, including rules specifying whom school officials may designate to inspect personnel files.

**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;

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

(j) Reduction in permanent teacher staff resulting from the district's inability to levy a tax sufficient to provide funds to continue its educational program at its anticipated level or resulting from the district's elimination of classes due to decreased student enrollment or reduction of courses due to administrative decision. School districts shall make every effort to transfer teachers of courses scheduled for discontinuation to other positions for which they are qualified. Merit and seniority shall be considered in determination of a teacher for such transfer.

(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 342.596. [1965 c.608 §§9, 19; 1973 c.298 §4; 1977 c.860 §4]

### **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 procedure shall be commenced for the dismissal of the teacher pursuant to the provisions of ORS 342.805 to 342.955 or the teacher must be reinstated. [1965 c.608 §7; 1971 c.570 §6, 1977 c.881 §4]

342.885 [1965 c.608 §10; repealed by 1973 c 298 §9]

**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 342.805 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 or delivered in person of the 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. A copy of ORS 342.805 to 342.955 shall also be sent to the permanent teacher.

(3) If, after the 20-day notice required by subsection (2) of this section, the district school board takes action to approve the recommendation for dismissal from the superintendent, the dismissal takes effect on or after the date of the district school board's action, as specified by the board. Notice of the board's action shall be given to the permanent teacher as soon as practicable by certified mail, return receipt requested or in the manner provided by law for the service of a summons in a civil action. [1965 c.608 §11; 1971 c.570 §7; 1973 c.298 §5; 1977 c.881 §5; 1979 c 668 §3]

**342.905 Appeal procedure.** (1) If the district school board dismisses the teacher, the teacher or the teacher's representative may appeal that decision to the Fair Dismissal Appeals Board established under ORS 342.930 by depositing by certified mail addressed to the Superintendent of Public Instruction and a copy to the superintendent of the school district within 10 days, as provided in ORS 174.120, 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 an assistant, at no cost to either involved party, 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 the notice of appeal is received by the Superintendent of Public Instruction, the superintendent shall appoint a panel of three members from the Fair Dismissal Appeals Board for the purpose of conducting a hearing. In so far as practicable the panel shall be selected from those members of the board serving in positions where the average daily membership as determined in ORS 342.930 most nearly coincides with that of the involved district. One member shall be from the category representing board members; one member shall be from the category of persons not affiliated with common or union high school districts; and one member shall be from the category representing teachers or administrators. 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. No panel shall contain a member who is resident of the district that is bringing the dismissal. As soon as possible after the selection of the panel, a time shall be established for the hearing. 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 panel shall conduct a contested case hearing in accordance with the provisions of the Administrative Procedures Act in ORS 183.310 to 183.500.

(5) When the Fair Dismissal Appeals Board panel 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 Fair

Dismissal Appeals Board panel shall determine whether the facts relied upon to support the statutory grounds cited for dismissal are true and substantiated. If the panel finds these facts true and substantiated, it shall then consider whether such facts, in light of all the circumstances and additional facts developed at the hearing that are relevant to the statutory standards in subsection (1) of ORS 342.865, are adequate to justify the statutory grounds cited. In making such determination, the panel shall consider all reasonable written rules, policies and standards of performance adopted by the school district board unless it finds that such rules, policies and standards have been so inconsistently applied as to amount to arbitrariness. The panel shall not reverse the dismissal if it finds the facts relied upon are true and substantiated unless it determines, in light of all the evidence and for reasons stated with specificity in its findings and order, that the dismissal was unreasonable, arbitrary or clearly an excessive remedy. The panel shall prepare the report within 30 days from the final adjournment of the hearing. However, when the panel 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) (a) Subject to subsection (5) of this section and paragraphs (b) and (c) of this subsection, if the Fair Dismissal Appeals Board panel 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 the salary for the period between the effective date of the dismissal and the date of the order reinstating the teacher.

(b) If the teacher was suspended prior to the effective date of dismissal, the teacher shall also receive salary for the uncompensated period of the suspension.

(c) So long as the right of the district board under subsection (8) of this section and under ORS 183.480 and 183.500 to judicial

review of the action of the Fair Dismissal Appeals Board remains unexpired, the district school board may withhold the reinstated teacher from performance of teaching duties, unless otherwise ordered by the court having jurisdiction of the appeal.

(7) Subject to subsection (5) of this section, if the Fair Dismissal Appeals Board panel 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) An appeal from action of the Fair Dismissal Appeals Board shall be taken in the manner provided in ORS 183.480.

(9) Reinstatement or settlement agreements entered into either prior to or subsequent to hearing as provided in ORS 342.805 to 342.955 shall be subject to subsection (3) of ORS 657.315. [1965 c.608 §12; 1971 c.570 §8; 1973 c.298 §6; 1973 c.612 §14; 1977 c.223 §1; 1977 c.400 §5; 1977 c.881 §6; 1979 c.668 §4]

**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 adopted by the Fair Dismissal Appeals Board pursuant to ORS 183.310 to 183.500.

(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 evidence relevant to the issue of whether the facts 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; 1979 c.668 §5]

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

**342.930 Fair Dismissal Appeals Board; appointment; confirmation; qualifications; term; compensation and expenses; officers; quorum.** (1) A Fair Dismissal

Appeals Board is created, consisting of 20 members appointed by the Governor, subject to confirmation by the Senate as provided in ORS 171.560 and 171.570. Five members shall be administrators in common or union high school districts, five members shall be permanent teachers, five members shall be members of common or union high school district boards at the time of their appointment and five members shall not be affiliated with any common or union high school district. At least one member from each category shall be resident of a school district with an average daily membership as defined in ORS 327.006, of less than 1,500 students; one from each category shall be resident of a school district containing from 1,500 to 4,500 students; and one from each category shall be resident of a school district containing over 4,500 students.

(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 compensation and expenses as provided in ORS 292.495 for each day or part thereof during which they perform duties under ORS 342.805, 342.815, 342.835, 342.850, 342.875, 342.895 to 342.915 and this section, 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; 1973 c.298 §7; 1977 c.881 §7]

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

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

## MISCELLANEOUS

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

(1) Notwithstanding the provisions of ORS 342.805 to 342.845 and 342.865 to 342.915, a teacher may be retired on July 1 next following the date on which he reaches the age of 70. However, upon written recommendation of the district superintendent that continued service by the teacher who has reached 70 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; 1973 c.298 §8; 1979 c.861 §8]

**342.960** [1971 c.743 §359; see 342.935; repealed by 1973 c.298 §9]

**342.965 Interchange of teachers.** A district school board may provide for the interchange of teachers with school districts of other states or countries. Teachers exchanged shall teach 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 approved by the Teacher Standards and Practices Commission in which the pupils are taught either wholly or in part by students

of an approved teacher education institution as defined in ORS 342.120. [Formerly 342 560; 1973 c 270 §16; 1977 c.783 §2]

**342.980 Student teacher; authority to teach; contract requirements and effect.** Any student of a teacher education institution approved by the Teacher Standards and Practices Commission, 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; 1967 c.67 §15, 1973 c 270 §17]

**342.982 Holder of school nurse certificate qualified to conduct and coordinate health services program.** (1) The holder of a school nurse certificate issued under subsections (1) to (3) of ORS 678.515 is qualified to accept employment to conduct and coordinate the health services programs of any public school in the State of Oregon. A person licensed as a registered nurse may use the term "nurse" as part of a title when employed by a school.

(2) No school or school district is required to employ as a nurse a person certified under subsections (1) to (3) of ORS 678.515. [1977 c 635 §7]

**342.990** [Repealed by 1965 c.100 §456]

#### CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G Clifford, 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,  
October 1, 1979.

Thomas G. Clifford  
Legislative Counsel

