

# Chapter 339

## 1983 REPLACEMENT PART

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**DEFINITION**

**339.005 Definition.** As used in ORS 339.005 to 339.145, 339.410, 339.420 and 339.990, unless the context requires otherwise, "administrative office for the county" means the administrative office of the education service district, of the county school district or of the administrative school district which includes an entire county. [1965 c.100 §273; 1973 c.728 §3]

**COMPULSORY SCHOOL ATTENDANCE**

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

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

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

(1) Children between the ages of 16 and 18 years who are lawfully employed full time, who are lawfully employed part time and in school part time, who are attending a community college, or are engaged in activities equivalent to the preceding.

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

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

(4) Upon determination pursuant to criteria of the State Board of Education that a child is suffering from physical or mental illness or disease of such severity as to make his presence in a school facility or his travel to and from such facility impossible or dangerous to his health or

the health of others, the public schools shall provide the child either home, hospital, institutional or other regularly scheduled and suitable instruction meeting standards of the State Board of Education unless such child is receiving suitable instruction in a state or regional facility or institution.

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

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

(a) Before the children are taught by a parent or private teacher, the parent or teacher must receive written permission from the executive officer of the resident school district. The permission shall not extend beyond the end of the school year in which permission is granted. If permission is not granted, the person having legal custody of the children may appeal the decision to the school board of the resident district.

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

(7) Children excused by the district school board of the district in which the children reside. The district school board has authority to excuse a child from compulsory attendance if the child has completed the first eight grades.

(8) Children excluded from attendance as provided by law.

(9) Children between the ages of 16 and 18 years who have the mutual consent of the school administration and the parent or other individual having custody or legal guardianship over a child. [Amended by 1965 c.100 §276; 1967 c.67 §8; 1971 c.494 §1; 1973 c.728 §1]

**339.040 Attendance supervisors; appointment; compensation.** (1) The executive officer of the administrative office for the county

shall appoint one person to act as the attendance supervisor for school districts having a school census of less than 1,000 children in the county. The attendance supervisor shall perform his duties under the direction of the administrative office for the county. The attendance supervisor shall receive as compensation for services a sum fixed by the governing body of the county and allowed and paid in the same manner as the salaries of county officers are paid.

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

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

(4) For purposes of the appointment and duties of attendance supervisors, the territory in a joint school district shall be considered part of the county in which the administrative office of the joint district is located. [Amended by 1965 c.100 §277]

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

**339.055 Duties of attendance supervisors.** The attendance supervisor when notified of a truancy or unexcused absence shall investigate the truancy or nonattendance at school. If the child is not exempt from compulsory school attendance, the attendance supervisor shall proceed as provided in ORS 339.080 and 339.090. [Formerly 339.100]

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

**339.065 Estimates of attendance; irregular attendance; excused absences.**

(1) In estimating regular attendance for purposes of the compulsory attendance provisions of ORS 339.005 to 339.145, 339.410, 339.420 and 339.990, the principal or teacher shall consider all unexcused absences. Eight unexcused one-half day absences in any four-week period during which the school is in session shall be considered irregular attendance.

(2) An absence may be excused by a principal or teacher if the absence is caused by the pupil's sickness, by the sickness of some member of the pupil's family or by an emergency. A principal or teacher may also excuse absences for

other reasons where satisfactory arrangements are made in advance of the absence.

(3) Any pupil may be excused from attendance by the district school board for a period not to exceed five days in a term of three months or not to exceed 10 days in any term of at least six months. Any such excuse shall be in writing directed to the principal of the school which the pupil attends. [1965 c.100 §281; 1973 c.728 §4]

**339.070** [Repealed by 1963 c.544 §52]

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

(2) At the same time notice is given to the parent or other person, the attendance supervisor shall notify the city superintendent or principal, as suitable, of the fact of the notice. The superintendent or principal shall notify the attendance supervisor of any failure on the part of the parent or other person to comply with the notice. [Amended by 1965 c.100 §282]

**339.090 Determination of compliance with notice.** The attendance supervisor shall determine whether the parent or other person given written notice of attendance requirements has complied with the notice. If he determines that the parent or other person has failed to comply, the attendance supervisor, within three days after having knowledge of such failure or after being notified thereof, shall make a complaint alleging the parent or other person's refusal or neglect to send the child to school. The complaint shall be made before a court having jurisdiction over misdemeanors committed within the county in which the parent or other person resides. The judge shall issue a warrant upon the complaint and shall proceed to hear and determine the matters alleged in the complaint in the same manner he hears and determines other cases under his jurisdiction. [Amended by 1965 c.100 §283]

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

339.110 [Repealed by 1965 c.100 §456]

### ADMISSION OF PUPILS; TUITION AND FEES

#### 339.115 Admission of pupils; waiver.

(1) Except as provided in ORS 336.165 authorizing tuition for courses not part of the regular school program, the district school board shall admit free of charge to the schools of the district all persons between the ages of 6 and 21 residing therein. However, a district school board may admit other nonresident persons, determine who is not a resident of the district and may fix rates of tuition for nonresidents.

(2) A child entering school for the first time during the fall term shall be considered to be six years of age if his sixth birthday occurs on or before November 15. A child entering school for the first time in a midwinter term, if the school has a beginning first-year class in midwinter, shall be considered to be six years of age if his sixth birthday occurs on or before March 15. However, nothing in this section prevents a district school board from admitting free of charge a child who is an educationally able and gifted child, as defined in ORS 343.395, entering school for the first time who has not attained the sixth birthday but who is a resident of the district.

(3) District school boards may provide, by rule, that a resident child eligible to enter a beginning first-year class at the opening of the fall term or midwinter term, but who does not enter within the first four weeks of such term shall be ineligible to enter school for the remainder of the school year or until another beginning first-year class is organized during that school year. A district school board may waive the requirements of this subsection for disadvantaged children as defined by ORS 343.650. [1965 c.100 §285; 1971 c.410 §1; 1977 c.463 §1]

Note: Chapter 193, Oregon Laws 1983, provides:

Sec. 1. ORS 339.115 is amended to read:

339.115. (1) Except as provided in ORS 336.165 authorizing tuition for courses not part of the regular school program, the district school board shall admit free of charge to the schools of the district all persons between the ages of 6 and 21 residing therein. However, a district school board may admit other nonresident persons, determine who is not a resident of the district and may fix rates of tuition for nonresidents.

(2) A child entering school for the first time during the fall term shall be considered to be six years of age if the sixth

birthday of the child occurs on or before September 1. A child entering school for the first time in a midwinter term, if the school has a beginning first-year class in midwinter, shall be considered to be six years of age if the sixth birthday of the child occurs on or before January 1. However, nothing in this section prevents a district school board from admitting free of charge a child who is determined to be academically, socially and physically ready to enter school, as defined by policies of the district school board, to enter school for the first time even though the child has not attained the sixth birthday but is a resident of the district.

(3) District school boards may provide, by rule, that a resident child eligible to enter a beginning first-year class at the opening of the fall term or midwinter term, but who does not enter within the first four weeks of such term shall be ineligible to enter school for the remainder of the school year or until another beginning first-year class is organized during that school year. A district school board may waive the requirements of this subsection for disadvantaged children as defined by ORS 343.650.

Sec. 2. Notwithstanding section 1 of this Act [ORS 339.115], a child entering school for the first time during the fall term of 1986 shall be considered to be six years of age if the sixth birthday of the child occurs on or before October 1. A child entering school for the first time in the midwinter term of 1987, if the school has a beginning first year in midwinter, shall be considered to be six years of age if the sixth birthday of the child occurs on or before February 1.

Sec. 3. Section 2 of this Act is repealed on July 1, 1987.

Sec. 4. This Act takes effect on July 1, 1986.

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

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

(2) In case the school district sending the pupils is a joint district, jurisdiction shall be exercised by the administrative office for the county in which the most populous part of such district is situated, according to the latest school

census. The office's action in the matter is final.  
[1965 c.100 §286]

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

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

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

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

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

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

**339.145 Admission to adult education program or community college; fees.** Persons 16 years of age or older and persons who have graduated from high school may enroll in the adult education program of a school district, or community college district, subject to the terms and conditions the district school board may establish. [1965 c.100 §288; 1967 c.67 §9; 1971 c.494 §2]

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

**339.155 Prohibitions of certain fees as condition of admission; allowable fees.** (1) No district school board shall require payment of fees as a condition of admission to those

pupils entitled under the law to free admission. However, the following are not considered as conditions of admission:

(a) Pursuant to ORS 336.165, but subject to ORS 336.168, tuition may be charged for courses not part of the regular school program.

(b) No charge shall be made for a standard, prescribed textbook but a security deposit may be required which may be refunded if the textbook is returned in usable condition. Supplemental texts shall be made available on loan.

(c) A deposit may be charged for a lock for a locker.

(2) A district school board may require pupils who do not furnish their own attire for physical education classes to pay an appropriate fee for uniforms provided by the district.

(3) A district school board may require pupils who do not provide appropriate towels for physical education classes to pay a fee for use of towels provided by the district.

(4) A district school board may require payment of fees for the use of musical instruments owned or rented by the district, the fee not to exceed the rental cost to the district or the annual depreciation plus actual maintenance cost for each instrument; except that children exempt from tuition under ORS 336.168 shall be loaned musical instruments by the school district without charge.

(5) Subject to ORS 336.168, a district school board may require payments of fees in any of the following:

(a) In any program where the resultant product, in excess of minimum course requirements and at the pupil's option, becomes the personal property of the pupil.

(b) Admission fees or charges for extracurricular activities where pupil attendance is optional.

(c) A security deposit conditioned on the return of materials, supplies or equipment including athletic equipment.

(d) Items of personal use or products which a pupil may purchase such as student publications, class rings, annuals and graduation announcements.

(e) Field trips considered optional to a district's regular school program.

(f) Any authorized voluntary pupil health and accident benefit plan.

(g) As used in this subsection, "minimum course requirements" means any product required to be produced to meet the goals of the course. [1975 c.508 §1; 1977 c.99 §1; 1977 c.815 §3]

339.160 [Repealed by 1965 c.100 §456]

### ADMISSION OF DEPENDENT CHILDREN

**339.165 Definitions for ORS 339.165 to 339.185.** As used in ORS 339.165 to 339.185, unless the context requires otherwise:

(1) "Attending district" means the school district in which the dependent child attends school.

(2) "Dependent child" means a child who is in any facility which is authorized to provide care for five or more children through placement by a public agency or by a private, licensed child-caring agency.

(3) "Resident district" means the school district in which the parents or legal guardian, if any, of the dependent child resided at the time the child became a ward of the public agency. If the dependent child has no parents or legal guardian, or none can be located, the child shall be considered to be resident of the district in which the child resided at the time the child became a dependent child. [1971 c.402 §1; 1973 c.327 §1; 1981 c.404 §1]

339.170 [Repealed by 1965 c.100 §456]

**339.175 Consultation with school board before establishing, expanding or changing facility for dependent children.** Prior to establishing or expanding a facility for dependent children or changing the type of educational services provided or the category of dependent children being served by the facility in any school district, the authorities of the public or private agency creating or altering such a facility shall confer with the board of directors of any substantially affected district to determine the impact of the additional children and services upon the facilities and program of the district. [1971 c.402 §2; 1979 c.836 §7]

339.180 [Repealed by 1965 c.100 §456]

**339.185 Admission of dependent children to school or other program where placed; tuition due from resident district; computation of tuition.** (1) A dependent child, as defined in ORS 339.165, must be admitted to the public schools of the district in which the child has been placed by the public or private, licensed child-caring agency.

(2) Except as provided in ORS 343.960 to 343.980, the school district shall provide or cause to be provided appropriate education to dependent children, including the identification and evaluation of such children for purposes of deter-

mining their eligibility as handicapped children to receive special education services enumerated in ORS 343.035 (4) and 343.650 (2). The education may be provided by the school district or by contract with an adjacent school district, an education service district, a private education agency, a community college, higher education programs or, if the program meets the criteria established under ORS 343.045, any other appropriate program. The instruction may be given in the facilities of such districts or in facilities provided by the education agency or the child-caring agency in which the child resides.

(3) The attending district shall notify the Department of Education as to the number of days of attendance by each child of a resident district by July 15 following the school year. The notification shall be accompanied by a signed affidavit from the agency having legal custody of the child or children, stating the period of time the child has lived in the district providing the educational service.

(4) The department shall compute the costs and shall submit a bill for tuition payment to the resident district. The resident district shall remit payment directly to the attending district upon receipt of the tuition billing.

(5) The attending district shall supply the names of dependent children to the department by March 1 of the year for which billing is to be made. The department shall supply the names of the dependent children to the superintendent of the resident district which is billed for tuition for the dependent children. To maintain confidentiality of the records, the department shall supply the names of the dependent children separate from the billing therefor.

(6) The resident district may appeal its classification as "resident district" to the Superintendent of Public Instruction. The superintendent shall determine the residency of the dependent children in question and the decision is final and not subject to appeal.

(7) The Superintendent of Public Instruction shall determine the amount of tuition based upon the average current expenditure per resident average daily membership state wide. The figure so determined shall be divided by the number of days taught in the attending district submitting the tuition notification. This figure multiplied by the total days' attendance of the individual child in the attending district shall represent the tuition charge to the resident district. [1971 c.402 §3; 1973 c.327 §2; 1979 c.836 §1; 1983 c.731 §8]

339.190 [Repealed by 1965 c.100 §456]

339.200 [Repealed by 1965 c.100 §456]

### PUPIL CONDUCT AND DISCIPLINE

**339.240 Rules of pupil, conduct and discipline; duties of state board and district school boards.** (1) The State Board of Education in accordance with ORS 183.310 to 183.550 shall prepare and promulgate to all school districts minimum standards for pupil conduct and discipline and for rights and procedures pertaining thereto that are consistent with orderly operation of the educational processes and with fair hearing requirements.

(2) Every district school board shall adopt and attempt to give the widest possible distribution of copies of reasonable written rules regarding pupil conduct, discipline and rights and procedures pertaining thereto. Such rules must comply with minimum standards promulgated by the State Board of Education under subsection (1) of this section. [1971 c.561 §§2, 3]

**339.250 Duty of pupil to comply with rules; discipline; alternate programs.** (1) Public school pupils shall comply with rules for the government of such schools, pursue the prescribed course of study, use the prescribed textbooks and submit to the teachers' authority.

(2) Unless otherwise specified by a district school board, a teacher may use reasonable physical force upon a student when and to the extent the teacher reasonably believes it necessary to maintain order in the school or classroom or at a school activity or event, whether or not it is held on school property.

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

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

(5) Expulsion of a pupil shall not extend beyond the current term or semester unless the semester ends within such a short period of time that the expulsion would be too short to be effective. However, the expulsion shall not extend beyond the second term or semester.

(6) When a pupil is expelled pursuant to subsection (3) of this section, or following a second or subsequent occurrence within any three-year period of a severe disciplinary problem with a pupil, or when it has been determined that a student's attendance pattern is so erratic that the student is not benefiting from the edu-

ational program, a district school board shall consider and propose to the pupil prior to expulsion and document to the parent, legal guardian or person in parental relationship alternative programs of instruction or instruction combined with counseling for the pupil.

(7) Upon receipt of written notice of intent to withdraw from the regular school program by a pupil 16 years of age or over for reasons other than enrolling in another educational program, a district school board shall propose to the pupil and document to the parent, legal guardian or person in parental relationship alternative programs of instruction and counseling or regular program instruction combined with counseling for the pupil. [1965 c.100 §289; 1971 c.561 §1; 1975 c.665 §1; 1979 c.739 §1a; 1979 c.836 §2; 1981 c.246 §2]

**339.253 Enrollment in alternate program; costs.** (1) If it is determined pursuant to ORS 339.250 (6) by the district school board, in consultation with the pupil's parents or legal guardian, that a pupil can benefit substantially from a specific alternate program of instruction that is not available in the district schools, the parents or legal guardian may enroll the pupil in that specified privately operated alternate program of instruction in this state which is registered with the Department of Education. If the child is determined to be eligible for special education under ORS 343.221 to 343.307, the program must be approved by the Department of Education prior to the placement of the pupil in the program. The pupil enrolled pursuant to this subsection shall be considered enrolled in the schools of the district for purposes of the distribution of the Basic School Support Fund.

(2) The alternate program in which the pupil enrolls shall notify the school district in which the pupil or the pupil's parents or legal guardian, if any, resided at the time the pupil enrolled of the child's enrollment and may bill the school district for tuition. The billing may be made annually or at the end of each term or semester of the alternate program. The school district shall pay at least an amount equivalent to the district's receipts from the Basic School Support Fund for the pupil. The reimbursement paid to an alternate program is not intended to displace funds or services which a program may already receive from the school district for the education of such pupils. The alternate program will be accountable for the expenditures of all basic school and other local school support funds, providing the school district with an annual statement of such expenditures. [1979 c.739 §2; 1981 c.246 §3]

**339.255 Effect of failure to propose alternative programs.** (1) The Superintendent of Public Instruction shall find a school district to be deficient within the meaning of ORS 327.103 if the district fails to cause the proposal of alternative programs to be made under ORS 339.250 (6) or (7).

(2) The failure to cause the proposal of alternative programs shall not be grounds for a civil action against the school district. [1979 c.836 §3; 1981 c.246 §4]

**339.260 Injury to school property by pupil.** (1) No pupil shall wilfully damage or injure any school property or threaten or wilfully injure any fellow pupil or faculty member.

(2) A pupil who violates subsection (1) of this section may be disciplined, suspended or expelled. [1965 c.100 §290; 1971 c.561 §4]

**339.270 Assessment of costs of school property damage against responsible pupil or parents; action to recover; limitation.** (1) The amount of damage to any school property shall be determined by procedures established by the district school board and they may be assessed against the pupil wilfully causing the injury or damage and against the parent or parents having legal custody of the pupil.

(2) If the assessed damages are not paid as demanded, the district school board, in addition to any other remedy provided by law, may bring an action under this section against the pupil and the parent or parents having legal custody of the pupil in a court of competent jurisdiction for the amount of the assessed damages not to exceed \$5,000 plus costs. [1971 c.561 §5; 1975 c.712 §2; 1977 c.419 §2]

**339.310** [1965 c.100 §291; repealed by 1973 c.728 §6]

**339.320** [1965 c.100 §292; repealed by 1973 c.728 §6]

**339.330** [1965 c.100 §293; repealed by 1973 c.728 §6]

**339.340** [1965 c.100 §294; repealed by 1973 c.728 §6]

**339.350** [1965 c.100 §295; repealed by 1973 c.728 §6]

**339.360** [1965 c.100 §296; repealed by 1973 c.728 §6]

## MISCELLANEOUS

**339.410** [1965 c.100 §297; repealed by 1979 c.228 §1]

**339.420 Attendance at religious instruction.** Upon application of his parent or guardian, or, if the child has attained the age of majority, upon application of the child, a child attending the public school may be excused from school for periods not exceeding two hours in any week for elementary pupils and five hours in any week for secondary pupils to attend weekday schools giving instruction in religion. [1965 c.100 §298; 1973 c.827 §32; 1977 c.276 §1]

**339.450 Prohibited grounds for denying participation in interscholastic athletics.** No school, school district or association, whether public or private, shall deny any grade or high school student the right to participate in interscholastic athletics solely on the ground that the student transferred between schools or participated in athletics at another school. [1983 c.823 §2]

## PENALTIES

**339.990 Penalties.** Violation of ORS 339.020, or failure to comply with the order issued under ORS 339.030 (6)(b), is punishable, upon conviction, by a fine of not more than \$100, or by imprisonment in the county jail for not more than 30 days, or both. [Amended by 1965 c.100 §299; 1967 c.67 §10]

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## CHAPTER 340

[Reserved for expansion]

