Chapter 342

1987 REPLACEMENT PART

Teachers and Other School Personnel

TEACHER CERTIFICATION

342 120 Definitions for ORS 342 120 to 342 200, 342 505 to 342 515, 342 545, 342 553, 342 596, 342 598, 342 604, 342 608 and 342 610 to 342 663

342 123 Knowledge of civil rights laws required

342 125 Types of certificates, indorsements

342 126 First aid card required for teaching certificate, waiver for handicapped

342 127 Fees

342 130 Existing certificates not invalidated

342 135 Basic, standard and other teaching certificates

342 140 Administrative certificate

342 143 Qualifications for teaching certificate

342 147 Approval of teacher education institutions and programs

342 155 Teacher aides and intern teachers

342 165 Commission rules

342 167 State board review of rule or standard of commission

342 169 Required ratio of pupils to staff holders of first aid cards, exceptions

342 173 Effect of employing noncertificated teacher by certain districts

342 174 Employment of noncertificated teacher by certain state institutions prohibited

342 175 Grounds for revocation or suspension of certificate, reinstatement

342 176 Preliminary investigation of complaint, materials confidential, notice whether hearing justified

342 177 Hearing and decision on charges

342 180 Appeal

342 190 Administrative Procedure Act not applicable to proceedings for reinstatement, revocation or suspension

342 195 Teaching certificates based on experience in certain federal programs

342 200 Administrative certificates based on professional skills and experience

342 203 Circulation of list of teachers and administrators subjected to discipline

TEACHER STANDARDS AND PRACTICES COMMISSION

342 340 Definitions for ORS 342 340 to 342 430

342 350 Commission established, confirmation, term, vacancy, effect of change in circumstances

342 360 Members, qualifications

342 380 Organization

342 390 Meetings, expenses

342 400 Certification requirements for out-of-state applicants

342 410 Executive secretary, employes

342 420 Member's salary, reimbursement to district

342 430 Teacher Standards and Practices Commission Account, appropriation

SCHOOL NURSES

342 455 Definition of "school nurse"

342 465 Rules, notice if action taken on license

342 475 School nurses, certificates

342 485 Commission to consult with and advise Oregon State Board of Nursing on school nursing

342 495 Holder of school nurse certificate qualified to conduct and coordinate health services program

EMPLOYMENT OF TEACHERS

342 505 Hiring of teachers

342 513 Renewal or nonrenewal of contracts for following year

342 515 Employment of relatives as teachers

342 545 Termination of teacher's contract, release

342 553 Resignation in violation of contract

TERMS AND CONDITIONS OF EMPLOYMENT OF SCHOOL PERSONNEL

342 596 Sick leave for school employes, other leave

342 598 Insurance, medical and hospital service contracts covering school employes

342 599 Inservice first aid training credit for first aid

342 604 Standard form for reporting salaries and other benefits

342 608 Working hours for certificated personnel, duty-free lunch period required, exception

342 609 Opportunity to qualify to assist non-English speaking students at no cost

342 610 Minimum salary for substitute teachers

342 613 Contracts with teachers for return of part of salary prohibited

342 617 Notice of reasonable assurance of continued employment, effect of failure to give notice

342 650 Wearing of religious dress prohibited

342 655 Sanctions against teacher violating ORS 342 650

342 663 Hearing on demotion or dismissal of certain district employes

BEGINNING TEACHER SUPPORT PROGRAM

342 782 Definitions for ORS 342 782 to 342 798

342 784 Findings

342 786 Program purpose, eligibility, availability of funding
342 788 District application, information required
342 790 Grants-in-aid, amount, distribution procedure
342 792 Training for mentors and beginning teachers
342 794 Mentor teachers, selection, stipend, effect on other teachers
342 796 Evaluation of programs
342 798 Pilot program, basis

FAIR DISMISSAL LAW

342 805 Short title
342 815 Definitions for ORS 342 805 to 342 934
342 835 Probationary teacher
342 840 Determination of length of service for probationary teacher
342 845 Permanent teacher, permanent part-time teacher, effect of program transfer
342 850 Teacher evaluation, form, personnel file content
342 865 Grounds for dismissal of permanent teacher
342 875 Suspension, reinstatement
342 895 Procedure for dismissal of permanent teacher
342 905 Appeal procedure
342 915 Hearing procedure
342 930 Fair Dismissal Appeals Board, appointment, confirmation, qualifications, term, effect of term expiration, compensation and expenses, officers, quorum
342 934 Procedure for reduction of teacher staff due to funding or administrative decision

MISCELLANEOUS

342 965 Interchange of teachers
342 970 Discrimination on account of sex or blindness forbidden
342 975 "Training school" defined
342 980 Student teacher, authority to teach, contract requirements and effect

CROSS REFERENCES

Child abuse reporting of suspected cases, 418 740 to 418 775

Civil service for school district custodians, 242 310 to 242 640

Discrimination against physically or mentally handicapped prohibited, 659 400 to 659 435

Discrimination in employment 659 015, 659 020

Education Cash Account, 327 485

Handicapped child, duty to report, 343 193

Hospital and medical insurance for retired members of Teachers' Retirement System, 239 242

Ineligibility of personnel in noninstructional capacity for unemployment benefits, recess period, 657 221

Legislative review of need for agency, 182 615

Liability of school personnel for administering medication to pupils, 336 650

Peace Corps volunteers, leaves of absence, 236 040

Personnel policies, requirements for writing location and availability, 332 535

Persons eligible to serve in legislature, Const Art XV, §8

Public employes, general provisions, Ch 236

Retirement

Public employes generally Ch 237

School district employes in certain districts, Ch 239

Variable Annuity Account 239 210

Saturday teaching, 336 010

School employe-student privilege, 40 245

Tax sheltered annuities, 243 810 to 243 830

Teacher education and training, funds, 327 495

Unemployment compensation, benefits, exclusion 657 030 657 167

Workers' compensation, coverage, 656 017

342 125

Oregon Office of Educational Policy and Planning, 348 715

342 135

Teaching experience, private school 345 585

342 143

Criminal conviction, effect on licensing 670 280

342 005 [Amended by 1955 c 518 §1 repealed by 1961 c 439 §13]

342 007 [1953 c 85 §1, repealed by 1965 c 100 §456]

342 010 [Repealed by 1965 c 100 §456]

342 015 [Repealed by 1961 c 439 §13]

342 020 [Repealed by 1961 c 439 §13]

342 025 [Repealed by 1961 c 439 §13]

342 030 [Repealed by 1961 c 439 §13]

342 035 [Repealed by 1961 c 439 §13]

342 040 [Repealed by 1961 c 439 §13]

342 045 [Repealed by 1961 c 439 §13]

342 050 [Amended by 1955 c 518 §2, repealed by 1961 c 439 §13]

342 055 [Repealed by 1963 c 544 §52]

342 060 [Amended by 1957 c 638 §1, repealed by 1965 c 100 §456]

342 065 [Amended by 1955 c 101 §1 renumbered 342 602]

342 070 [Amended by 1957 c 638 §2, 1961 c 677 §1, renumbered 342 175]

342 075 [Amended by 1961 c 677 §2 renumbered 342 180]

342 080 [Repealed by 1961 c 439 §13]

342 085 [Amended by 1955 c 214 §1, repealed by 1965 c 100 §456]

342 090 [Repealed by 1965 c 100 §456]

342 095 [Repealed by 1965 c 100 §456 and 1965 c 550 §6]

342 100 [Repealed by 1965 c 100 §456 and 1965 c 550 §6]

342 105 [Repealed by 1961 c 439 §13]

342 110 [Amended by 1961 c 707 §1, repealed by 1961 c 439 §13]

342 115 [Repealed by 1961 c 439 §13]

TEACHER CERTIFICATION

342.120 Definitions for ORS 342.120 to 342.200, 342.505 to 342.515, 342.545, 342.553, 342.596, 342.598, 342.604, 342.608 and 342.610 to 342.663. As used in ORS 342 120 to 342 200, 342 505 to 342 515, 342 545, 342 553, 342 596, 342 598, 342 604, 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, but does not include the provision of related services, as defined in ORS 343 035, to a child identified as handicapped pursuant to ORS 343 153 to 343 187 when provided in accordance with ORS 343 221

(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 "Teacher" does not include a school nurse as defined in ORS 342 455

(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, 1981 c 393 §1, 1981 c 469 §5]

342.123 Knowledge of civil rights laws required. (1) 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 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 per-

taining thereto, as well as state statutes prohibiting discrimination

(2) An applicant shall be required to demonstrate knowledge of federal and state statutes prohibiting discrimination required by subsection (1) of this section only once [1977 c 805 §2, 1981 c 663 §1]

342.125 Types of certificates; indorsements. (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 ORS 342 135 (4)

(3) Notwithstanding subsection (2) of this section and ORS 342 135, a teacher shall be granted a subject matter indorsement if the teacher held a basic certificate and a subject matter indorsement on or before January 1, 1981

(4) A holder of the basic teaching certificate with an indorsement in art, educational media, foreign language, health, home economics, industrial arts, music, physical education and reading may renew the initial basic certificate by verification of successful teaching experience in keeping with Teacher Standards and Practices Commission rules and without the requirement of additional educational preparation

(5) Subsections (3) and (4) of this section apply to certificates for grades preprimary through eight and shall include grade nine if the teacher is teaching in a middle school or a junior high school [1961 c 439 §2, 1965 c 100 §349, 1965 c 550 §2 part renumbered 342 127 1973 c 270 §3 1981 c 663 §2]

342.126 First aid card required for teaching certificate; waiver for handicapped. (1) Except as provided in subsection (2) of this section, within 90 days after receiving an initial teaching certificate under ORS 342 125, the holder of the certificate shall obtain a recognized first aid card Failure to obtain the card shall result in suspension of the teaching certificate pursuant to ORS 342 175

(2) The commission may waive the requirement of subsection (1) of this section for any holder of a teaching certificate who has taken a recognized first aid course of study but who is unable by reason of physical handicap to obtain a recognized first aid card

(3) The commission by rule shall specify the procedure whereby the holder of a teaching certificate can obtain the waiver authorized by subsection (2) of this section [1977 c 826 §2, 1981 c 180 §1]

342.127 Fees. (1) The Teacher Standards and Practices Commission shall establish and the commission shall collect

(a) A fee not to exceed $35 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 application is made and the certificate is issued within 90 days of original application, the commission shall issue the certificate without additional charge

(b) A fee not to exceed $35 for the renewal of each teaching certificate and a fee not to exceed $10 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 of a teaching certificate, the Teacher Standards and Practices Commission shall collect a fee not to exceed $100 for the evaluation of applicants requesting certification based upon completion of other than an Oregon approved teacher education program

(4) In addition to the fees required by subsection (1) of this section, the Teacher Standards and Practices Commission shall collect a late application fee not to exceed $10 per month up to a maximum of $50 for applicants who fail to make timely application for renewal of their certificate The actual amount of the fee shall be determined in accordance with rules of the Teacher Standards and Practices Commission

(5) In spite of the expiration date posted on the certificate, the certificate shall continue to be valid for purposes of ORS 342 173 and 342 505 (2) for an additional 120 days However, the district may require a statement from the applicant indicating that the applicant has completed the requirements for certificate renewal [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, 1981 c 663 §3 1983 c 14 §1]

342.130 Existing certificates not invalidated. (1) Nothing in ORS 342 120 to 342 173 is intended to invalidate the life of any certificate or

diploma in effect on June 30, 1965, nor to invalidate the rights granted prior to June 30, 1965, by the law and the rules of the board under which the certificate or diploma was issued

(2) Nothing in chapter 550, Oregon Laws 1965, is intended to invalidate the life of any teaching certificate in effect on August 13, 1965, or to alter the rights and privileges granted prior to August 13, 1965, by the law under which the teaching certificate was issued [1961 c 439 §3, 1965 c 100 §350, subsection (2) enacted as 1965 c 550 §4]

342.135 Basic, standard and other teaching certificates. (1) A teaching certificate provided for in this section shall qualify its holder to accept any instructional assignment from preprimary through grade 12 for which holder 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 approved 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 the holder 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 (1981 Replacement Part), 163 465, 163 515, 163 525, 163 575, 167 007, 167 012, 167 017, 167 065, 167 070, 167 075 or 167 080 or after July 8, 1987, has been convicted of a crime listed in ORS 163 408, 163 411, 163 670, 163 675, 163 680, 167 062, 167 087 or 167 090

(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, 1987 c 158 §58, 1987 c 503 §6]

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 183 550 [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 183 550, 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 183 550

(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 ORS 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 183 550

(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 Preface to Oregon Revised Statutes for further explanation

342.169 Required ratio of pupils to staff holders of first aid cards; exceptions. (1) The state board shall establish by rule the ratio of the number of pupils to the number of staff members who must hold current, recognized first aid cards in each school

(2) In order to attain or maintain the ratio set under subsection (1) of this section, the district may require any staff member as a condition of employment to hold a current, recognized first aid card The staff member shall have 90 days from the date on which the district imposes the requirement to obtain the first aid card

(3) The district shall waive the requirement of subsection (2) of this section for any staff

member who has had the requirement waived by the commission and may waive the requirement for other staff who are unable by reason of handicap to obtain recognized first aid cards

(4) The district shall certify annually to the Department of Education that it complies with the ratio requirement set under subsection (1) of this section [1981 c 180 §3]

Note 342 169 was enacted into law by the Legislative Assembly and was added to and made a part of 342 120 to 342 200 but was not added to or made a part of 342 120 to 342 175 or 342 125 to 342 173 by legislative action See 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 by certain districts. (1) Any school district or education service district which employs as a teacher 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

(3) Notwithstanding subsections (1) and (2) of this section, a school district employing noncertificated staff members in positions requiring certificated personnel during the time of a labor dispute shall forfeit in basic school support an amount equal to the daily salary rate multiplied by the number of teaching days for each noncertificated teaching employe during the entire labor dispute [1965 c 100 §353, 1975 c 278 §2, 1977 c 635 §10, 1979 c 307 §2, 1981 c 469 §1, 1981 c 663 §4]

Note The amendments to 342 173 by section 1, chapter 401, Oregon Laws 1987, and section 1a chapter 503, Oregon Laws 1987, are repealed June 30, 1989 See section 2, chapter 401, Oregon Laws 1987, and section 1b, chapter 503, Oregon Laws 1987 The text is set forth for the user's convenience

342 173 (1) Any school district which employs as a teacher 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

(a) Such assignments are made with justification satisfactory to the Teacher Standards and Practices Commission

(b) The teacher is employed by a post-secondary institution accredited by the Northwest Association of Schools and Colleges which has a contract with a school district under which the teacher is teaching at the high school level The contract shall be approved annually by the State Board of Education under rules adopted by the board, including criteria for a teacher's qualifications under subparagraph (C) of this paragraph The contract shall

(A) Be for a specific instructional assignment for which the district does not have appropriately certificated personnel either on staff or available to be placed on staff after a reasonably diligent search,

(B) Be approved annually by the governing boards of the post-secondary institution and the school district including a written determination that appropriately certificated personnel have not become available since the previous contract for the assignment,

(C) Provide evidence that the teacher's qualifications are appropriate for the assignment,

(D) Allow the teacher to teach no more than two high school units of credit or the equivalent per year, and

(E) Not be valid during a school closure, strike or summer session

(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

(3) Notwithstanding subsections (1) and (2) of this section, a school district employing noncertificated staff members in positions requiring certificated personnel during the time of a labor dispute shall forfeit in basic school support an amount equal to the daily salary rate multiplied by the number of teaching days for each noncertificated teaching employe during the entire labor dispute

(4) If the State Board of Education finds a contract to be in violation of the provisions of paragraph (b) of subsection (1) of this section, the board shall report the violation to the Teacher Standards and Practices Commission which shall proceed as provided in subsection (1) of this section

(5) Any education service district that employs as a teacher or administrator any person not properly certificated and assigned in accordance with the terms specified in the person's certificate shall pay from its funds an amount determined by the Teacher Standards and Practices Commission not to exceed the amount of salary paid to the person for the

time during which the person was employed The payment shall be required unless the assignment is made with justification satisfactory to the commission All amounts received under this subsection shall be credited to the Basic School Support Fund

(6) No education service district shall be required under subsection (5) of this section to pay a penalty 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

342.174 Employment of noncertificated teacher by certain state institutions prohibited No Department of Corrections 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 1987 c 320 §156]

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 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 (1981 Replacement Part), 163 465, 163 515, 163 525, 163 575, 167 007, 167 012, 167 017, 167 065, 167 070, 167 075 or 167 080 or after July 8, 1987, has been convicted of a crime listed in ORS 163 408, 163 411, 163 670, 163 675, 163 680, 167 062, 167 087 or 167 090

(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, 1987 c 158 §59, 1987 c 503 §7]

342.176 Preliminary investigation of complaint, materials confidential; 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 documents and materials used in the preliminary investigation are confidential and not subject to public inspection The results of the preliminary investigation shall be reported to the commission, meeting in executive session, 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 Notwithstanding ORS 192 660 (4), the commission may make its findings in executive session However, the provi-

sions of ORS 192 660 (3) apply to such sessions [1979 c 226 §2, 1987 c 503 §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 subpena 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 subpenaed 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 consideration 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 ORS 342 175 (1) 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 183 550 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 ORS 342 135 (2) shall be granted the certificate upon showing by proof satisfactory to the Teacher Standards and Practices Commission that the applicant 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 sub-

jects 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 ORS 342 127 (3), 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 171 562 and 171 565

(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 Members; 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 Acting as an elected representative of teachers, supervisors or administrators shall be considered teaching, supervising or administering for the purposes of the five-year experience requirement 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, 1987 c 503 §9]

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 services as a member, but subject to any other applicable law regulating travel and other expenses for state officers, the member shall receive actual and necessary travel and other expenses incurred in the performance of official duties [1965 c 535 §§7, 8]

342.400 Certification requirements for out-of-state applicants. (1) The commission shall not issue a certificate to an out-of-state applicant unless the applicant has met the professional requirements established by rule by the commission and has completed a course of study substantially similar to that required for an in-state applicant

(2) Notwithstanding subsection (1) of this section, if the commission establishes that the position or positions to be filled are in a geographic or subject matter area in which there are an insufficient number of in-state applicants, the commission may issue a certificate to an out-of-state applicant who has completed a course of study approved by the commission

(3) In situations described in subsection (2) of this section, the Teacher Standards and Practices Commission shall establish rules providing for equal treatment for graduates of approved Oregon colleges and universities

(4) Teachers granted certificates under subsections (2) and (3) of this section shall be required to meet all standards required of Oregon teachers, including the requirements of ORS 342 123, not later than three years following the date of initial granting of the certificate [1965 c 535 §9, 1973 c 270 §13, 1979 c 307 §6, 1981 c 663 §5, 1987 c 503 §8]

342.410 Executive secretary; employes. The commission shall appoint a

qualified person as executive secretary and may, subject to the State Personnel Relations 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 the employer of the member or any other benefits to which the member is entitled

(2) A school district required to employ a substitute for a teacher or administrator who is absent from 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 [1977 c 635 §8, repealed by 1981 c 469 §6]

342 440 [1971 c 755 §2, repealed by 1973 c 536 §39]

342 445 [1977 c 635 §9, renumbered 342 485]

342 450 [1965 c 390 §1, 1969 c 647 §1, repealed by 1973 c 536 §39]

SCHOOL NURSES

342.455 Definition of "school nurse." "School nurse" as used in ORS 342 465 and 342 475, means a registered nurse who is certified by the Teacher Standards and Practices Commission as qualified to conduct and coordinate the health services programs of a school [Formerly 678 505]

342 460 [1965 c 390 §§2, 3, 1969 c 647 §2, 1971 c 755 §3, repealed by 1973 c 536 §39]

342 465 Rules; notice if action taken on license. (1) The Teacher Standards and Practices Commission shall make rules necessary for the issuance, denial, continuation, renewal, lapse or reinstatement of certificates issued under ORS 342 475 (1) to (3) and for establishment and collection of fees for certification as a school nurse The commission may adopt rules for revocation of a certificate issued under ORS 342 475 (1) to (3) that are consistent with ORS 342 175 to 342 190

(2) The Oregon State Board of Nursing shall notify the Teacher Standards and Practices Commission whenever the board takes any action on a license issued under ORS chapter 678 which might affect the ability of the license holder to practice as a school nurse [Formerly 678 525]

342 470 [1965 c 390 §4, 1969 c 647 §3, 1971 c 755 §4, repealed by 1973 c 536 §39]

342.475 School nurses; certificates. (1) "School nurse" is established as a category of specialization in nursing

(2) The Teacher Standards and Practices Commission shall issue a certificate as a school nurse to a person who complies with the rules established by the commission for the certification and practice of school nursing or who has been certified by the Oregon State Board of Nursing as a school nurse practitioner In establishing rules for the certification and practice of any specialization of school nursing, the commission shall consider the recommendations of the Oregon State Board of Nursing

(3) The commission may issue an emergency certificate that authorizes a person licensed as a registered nurse in this state who does not meet the requirements of subsection (2) of this section to practice as a school nurse Such certificates shall be issued for a limited time as set by the commission

(4) Notwithstanding subsections (1) to (3) of this section, the commission shall issue a certificate in a school nurse specialization category to a registered nurse who applies for certification and who is employed by a school, school district or education service district to conduct and coordinate a school or district health services program or who serves in such a capacity on a voluntary basis on November 1, 1981 A certificate issued under this subsection shall be issued without further proof of qualification by the applicant

(5) A certificate issued under this section is not a teaching certificate The nurse holding a certificate issued under this section is not subject to ORS 237 121 or 342 805 to 342 934 [Formerly 678 515]

342 480 [1971 c 755 §5, repealed by 1973 c 536 §39]

342.485 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 [Formerly 342 445]

342.495 Holder of school nurse certificate qualified to conduct and coordinate health services program. (1) The holder of a school nurse certificate issued under ORS 342 475 (1) to (3) 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 ORS 342 475 (1) to (3) [Formerly 342 982]

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 the position without first providing 60 days' written notice to the district superintendent or the notice required in the applicable collective bargaining agreement may have the teaching certificate of the teacher 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]

TERMS AND CONDITIONS OF EMPLOYMENT OF SCHOOL PERSONNEL

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 the license of the person or any other remedial care recognized under the laws of the state

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

(4) No premium or other periodic charge on any insurance, medical or hospital service contract shall be paid unless the insurer or hospital association issuing such policy or contract is by law authorized to transact business as an insurance company or hospital association in this state

(5) The board may negotiate more than one contract with one or more insurance companies or hospital associations if necessary to obtain optimum coverage at minimum cost [1965 c 254 §1]

342.599 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 [1967 c 67 §14 (enacted in lieu of 342 600), 1975 c 278 §8, 1975 c 770 §48a, 1981 c 128 §1 repealed by 1983 c 187 §1]

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 qualify 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) The school district shall set the working hours for a substitute teacher, and, when employed, shall pay the substitute teacher a salary which is no less than one-half of the daily minimum salary as computed under subsection (1) of this section Any salary in excess of the one-half minimum daily salary may be prorated only when less than the full slate of classes assigned to the regular full-time teacher is taught by the substitute When substituting for a part-time teacher, the substitute teacher's salary shall be no less than a percentage of the daily minimum salary, as computed in subsection (1) of this section, identical to the percentage of the day assigned to the permanent part-time teacher the substitute teacher replaces

(3) 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

(4) Subsections (1) to (3) of this section do 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, 1987 c 402 §1]

342.613 Contracts with teachers for return of part of salary prohibited No district shall enter into a contract with any

teacher whereby the teacher shall return to the district any part of the salary of the teacher 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]

342.617 Notice of reasonable assurance of continued employment; effect of failure to give notice. (1) Each school district shall give an individual, written notice of reasonable assurance of continued employment to all school employes who are to perform services in the same or a similar capacity during a subsequent academic year or term or in the period immediately following a recess period Such notice shall be given by May 30 of each year for employes employed as of that date and as of the date of hire for employes employed subsequent to May 30

(2) No liability shall accrue from failure to give the notice required by subsection (1) of this section or from the timing or contents thereof on the part of the school district However, the State Board of Education shall enforce the provisions of subsection (1) of this section

(3) 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 [1985 c 585 §2]

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 duties as a teacher [Amended by 1965 c 100 §387]

342.655 Sanctions against teacher violating ORS 342.650. Any teacher violating the provisions of ORS 342 650 shall be suspended or dismissed from employment by the district school board The suspension or dismissal is not subject to ORS 342 805 to 342 934 The board shall report its action to the Teacher Standards and Practices Commission which may suspend or revoke the teacher's teaching certificate [Amended by 1965 c 100 §388, 1987 c 503 §3]

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]

BEGINNING TEACHER SUPPORT PROGRAM

342.782 Definitions for ORS 342.782 to 342.798. As used in ORS 336 705 to 336 780, 342 782 to 342 798 and 348 120 to 348 135

(1) "Beginning teacher" means a teacher who

(a) Possesses a basic teaching certificate issued by the Teacher Standards and Practices Commission,

(b) Is employed at least half time, primarily as a classroom teacher, by a school district, and

(c) Has taught fewer than 90 consecutive days, or 180 days total, as a certificated teacher in any public school

(2) "District" means a school district or an education service district, or any legally constituted combination of such districts

(3) "Formal assistance" means a program provided by a mentor teacher to a beginning teacher that includes, but is not limited to, direct classroom observation and consultation, assistance in instructional planning and preparation, support in implementation and delivery of classroom instruction, and other assistance intended to enhance the professional performance and development of the beginning teacher

(4) "Mentor teacher" means a teacher who

(a) Possesses a basic or standard teaching personnel service or administrative certificate issued by the Teacher Standards and Practices Commission,

(b) Is employed at the time of selection under contract primarily as a classroom teacher by a school district in this state,

(c) Has successfully taught for three or more years as a certificated teacher in any public school,

(d) Has been selected and trained as described in ORS 342 794, and

(e) Has demonstrated mastery of teaching skills and subject matter knowledge

(5) "Teacher" means a certificated employe of a common or union high school district or an employe of an education service district who has direct responsibility for instruction, coordination of educational programs or supervision of teachers and who is compensated for services from public funds "Teacher" does not include a school nurse as defined in ORS 342 455 or a person whose duties require an administrative certificate [1987 c 896 §14]

Note 342 782 to 342 798 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 342 or any series therein by legislative action See Preface to Oregon Revised Statutes for further explanation

342 784 Findings. The Legislative Assembly finds that

(1) The quality of teaching in the public schools is of vital importance to the future of this state,

(2) This state has a special interest in insuring that the induction of beginning teachers into their profession is conducive to their professional growth and development, and

(3) The formal assignment of mentor teachers who have demonstrated mastery of teaching skills and subject matter knowledge should substantially improve the induction and professional growth of beginning teachers in this state, as well as provide mentor teachers with additional and valuable opportunities to enhance their own professional growth [1987 c 896 §15]

Note See note under 342 782

342.786 Program purpose; eligibility, availability of funding. (1) The State Board of Education shall establish a beginning teacher support program to provide eligible beginning teachers in this state with continued and sustained support from a formally assigned mentor teacher during the first full year of teaching

(2) After the 1987-1988 school year, any district is eligible to participate in the beginning teacher support program

(3) Two or more districts may operate jointly a beginning teacher support program if they meet all the requirements of ORS 336 705 to 336 780, 342 782 to 342 798 and 348 120 to 348 135

(4) Educational consortia established for approved teacher education programs pursuant to rules of the Teacher Standards and Practices Commission are eligible to operate a beginning teacher support program to serve beginning teachers in a participating school district if

(a) All moneys received as grants-in-aid for the beginning teacher support program are administered by the participating school district to provide direct services to beginning teachers, and

(b) All other requirements of ORS 336 705 to 336 780, 342 782 to 342 798 and 348 120 to 348 135 are met

(5) To the extent practicable, school districts may coordinate with institutions of higher education in the design, implementation and evaluation of mentorship programs

(6) All programs in ORS 336 705 to 336 780, 342 782 to 342 798 and 348 120 to 348 135 are subject to the availability of funds appropriated therefor [1987 c 896 §§16, 28]

Note See note under 342 782

342.788 District application; information required. Each district that wishes to participate in the beginning teacher support program shall submit a formal application to the Department of Education no later than September 15 of each school year, according to rules of the state board By that date, districts shall inform the department of

(1) The names of all eligible beginning teachers employed by the district and a description of their teaching assignments and extracurricular duties,

(2) The names of mentor teachers selected by a district and a description of their teaching

assignments and the indorsement area in which they are certified to teach,

(3) A description of the content and calendar of the proposed beginning teacher support program The program must provide a minimum of 90 hours of direct contact between mentor teachers and beginning teachers, including observation of or assistance with classroom teaching, or both, during the school day,

(4) A description of the amount and nature of each eligible beginning teacher's classroom and extracurricular duties and assurance that these duties are not unreasonable for a beginning teacher, and

(5) A certification that no eligible beginning teacher is or may be misassigned outside the teacher's indorsement area, except as provided for by rules of the Teacher Standards and Practices Commission [1987 c 896 §17]

Note See note under 342 782

342.790 Grants-in-aid; amount, distribution procedure. (1) Subject to ORS 291 232 to 291 260, the Superintendent of Public Instruction shall distribute grants-in-aid to eligible districts to offset the costs of beginning teacher support programs A qualifying district shall receive annually $3,000 for each full-time equivalent beginning teacher approved for support

(2) The Superintendent of Public Instruction shall distribute at least three-fourths of the allocation due to each eligible district no later than February 1 of each fiscal year and the remainder prior to June 30 of each fiscal year If underpayments or overpayments result, adjustments shall be made in the following year

(3) If the funds are insufficient for all eligible proposals, the department shall award grants on a competitive basis taking into consideration school district size and geographic location

(4) Notwithstanding ORS 342 788 (1), if a participating district hires a beginning teacher after its program has been approved, the district shall be eligible to receive, for each beginning teacher in addition to those named in the application, a per teacher grant-in-aid that is prorated to the remaining length of the school year, if all other requirements of ORS 336 705 to 336 780, 342 782 to 342 798 and 348 120 to 348 135 are met

(5) The State Board of Education may adopt such rules as it considers appropriate for the distribution of grants-in-aid under this section

(6) A district that is determined by the Department of Education to be in violation of one or more of the requirements of ORS 336 705 to 336 780, 342 782 to 342 798 and 348 120 to 348 135 may be required to refund all grants-in-aid moneys distributed under ORS 336 705 to 336 780, 342 782 to 342 798 and 348 120 to 348 135 The amount of penalty shall be determined by the State Board of Education [1987 c 896 §§18 22]

Note See note under 342 782

342.792 Training for mentors and beginning teachers. After consulting with representatives of teachers, administrators, school boards, schools of education, Teaching Research Division of the State System of Higher Education and such others as it considers appropriate, the Department of Education shall develop or approve workshops to provide training for mentor teachers and beginning teachers in programs eligible for grants-in-aid under ORS 336 705 to 336 780, 342 782 to 342 798 and 348 120 to 348 135 [1987 c 896 §19]

Note See note under 342 782

342.794 Mentor teachers; selection; stipend; effect on other teachers. The selection, nature and extent of duties of mentor teachers shall be determined by the school district The following guidelines shall apply

(1) No teacher shall be designated as a mentor teacher unless willing to perform in that role,

(2) No mentor teacher shall participate in the evaluation of beginning teachers for purposes of actions taken under ORS 342 805 to 342 955,

(3) Each mentor teacher shall complete successfully a training workshop provided or approved by the Department of Education prior to participating in the beginning teacher support program,

(4) The stipend received for each beginning teacher may be used by the district to compensate teachers who act as mentor teachers in addition to their regular duties or to compensate other individuals assigned duties to provide release time for teachers acting as mentor teachers, and

(5) If a mentor teacher receives additional release time to support a beginning teacher, it is expected that the total workload of other teachers regularly employed by the school district should not increase in any substantial manner [1987 c 896 §20]

Note See note under 342 782

342.796 Evaluation of programs. The Department of Education shall be responsible for the regular and ongoing evaluation of programs under ORS 336 705 to 336 780, 342 782 to

342 798 and 364 120 to 364 135 and may contract for such evaluation The evaluation shall include, but not be limited to, assessments of the following

(1) A survey and follow-up of all eligible mentor teachers and beginning teachers and appropriate district officials, to assess satisfaction with and the effectiveness of the beginning teacher support program,

(2) The amount and quality of the contact time between mentor teachers and beginning teachers,

(3) The effectiveness of workshops and other training required under ORS 336 705 to 336 780, 342 782 to 342 798 and 364 120 to 364 135, and

(4) The effectiveness of the mentor program in enhancing the professional development and retention of new teachers in the district

(5) The desirability of extending this assistance program to students participating in graduate level teacher preparation programs similar to those which have been proposed by the Department of Higher Education

(6) The desirability of extending this assistance program to all probationary teachers [1987 c 896 §21]

Note See note under 342 782

342.798 Pilot program; basis. Commencing in the 1987-1988 school year, a limited number of districts shall be selected for a pilot program, based on diversity of size and geographic location [1987 c 896 §23]

Note See note under 342 782

FAIR DISMISSAL LAW

342.805 Short title. ORS 342 805 to 342 934 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 342.934. As used in ORS 342 805 to 342 934 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 superintendent, the person designated to fulfill the superintendent's functions

(4) "Fair dismissal district" means any common or union high school district or education service district

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

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

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

(8) "Teacher" means any person who holds a teacher's certificate as provided in ORS 342 125 or who is otherwise authorized to teach in the public schools of this state and who is employed half time or more as an instructor or administrator

(9) "Temporary teacher" means a teacher employed to fill a position designated as temporary or experimental or to fill a vacancy which occurs after the opening of school because of unanticipated enrollment or because of the death, disability, retirement, resignation, or dismissal of a permanent or probationary teacher [1965 c 608 §2, 1971 c 570 §12, 1977 c 880 §1, 1977 c 881 §2, 1979 c 668 §1, 1981 c 299 §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 considered in good faith sufficient by the board The probationary teacher shall be given a written copy of the reasons for the 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) For any cause it may deem in good faith sufficient, the district board may 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 of 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 to the circuit court for the county in which the headquarters of the school district is located and shall be limited to the following

(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, 1981 c 323 §1]

342.840 Determination of length of service for probationary teacher. For purposes of determining length of service for a probationary teacher, a teacher employed for 135 consecutive days in any school year shall receive credit for a full year of employment At least 30 consecutive days of employment in the same district in a successive year shall be sufficient to keep the service intact, and the teacher shall not lose credit for previous probationary years served [1981 c 299 §3]

Note 342 840 was enacted into law by the Legislative Assembly and was added to 342 805 to 342 955 but was not added to or made a part of 342 805 to 342 930 by legislative action See Preface to Oregon Revised Statutes for further explanation

342.845 Permanent teacher; permanent part-time teacher; effect of program transfer. (1) A permanent teacher shall not be subjected to the requirement of annual appointment nor shall the teacher be dismissed or employed on a part-time basis without the consent of the teacher except as provided in ORS 342 805 to 342 934

(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) Except as provided in ORS 342 934, 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 the consent of the teacher except for the reasons for which a permanent teacher may be dismissed as provided in ORS 342 805 to 342 934 and in accordance with the procedures set forth in ORS 342 805 to 342 934 pursuant to which a permanent teacher may be dismissed

(4) No teacher shall be deprived of employment status solely because the duties of employment have been assumed or acquired by another school district or education service district in a state reorganization of a regional special education program Where such reorganization occurs, a teacher shall be transferred to the employment of the school district or education service district which assumed or acquired program responsibilities The teacher shall be allowed to transfer accrued sick leave and experience status to the new district However, the district to which the programs are transferred is obligated to hire displaced employes only to the extent that such would complement a cost effective staffing plan in the reorganized program [1965 c 608 §§5, 6 1977 c 880 §2, 1983 c 554 §1, 1983 s s c 1 §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 is established, if one is needed to remedy the problem

(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

(8) The teacher evaluation procedures mandated by subparagraphs (A) to (D) of paragraph (b) of subsection (2) of this section shall be enforced by the State Board of Education pursuant to ORS 327 103 [1971 c 570 §5, 1973 c 298 §3, 1973 c 458 §1, 1977 c 881 §3 1979 c 598 §1, 1979 c 668 §2a, 1987 c 663 §1]

342 855 [1965 c 608 §8, repealed by 1971 c 570 §15]

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

(a) Inefficiency,

(b) Immorality,

(c) Insubordination,

(d) Neglect of duty,

(e) Physical or mental incapacity,

(f) Conviction of a felony or of a crime involving moral turpitude,

(g) Inadequate performance,

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

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

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

(3) Suspension or dismissal on the grounds contained in paragraph (e) of subsection (1) of this section shall not disqualify the teacher involved for any of the benefits provided in ORS 237 171 to 237 195, 239 233 to 239 239 or 342 596 [1965 c 608 §§9 19, 1973 c 298 §4, 1977 c 860 §4, 1981 c 569 §1]

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 ORS 342 865 (1)(b) to (f), and when the district superintendent is of the opinion that immediate suspension of the teacher is necessary for the best interest of education in the district, the district superintendent may suspend a permanent teacher from the 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 342 934 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 342 934 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 ORS 342 865 (1)(a), (c), (d), (g) or (h), 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 342 934 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 subpena 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 183 550

(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 ORS 342 865 (1), 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 such back pay as ordered by the Fair Dismissal Appeals Board panel 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

(d) If the Fair Dismissal Appeals Board panel determines that the procedures described in ORS 342.850 (2)(b)(A) to (D) have not been substantially complied with, the teacher may be reinstated or provided such other relief as determined appropriate, or both

(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 342 934 shall be subject to ORS 657 315 (3) [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 1987 c 663 §2]

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 183 550

(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; effect of term expiration; 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 171 562 and 171 565 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) Except as provided in subsection (3) of this section, 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) A member whose term has expired may continue to serve for the following limited purposes

(a) To conduct a hearing and prepare a report if the member was appointed to a panel in accordance with ORS 342 905 (3) before the expiration of the member's term, or

(b) To reconsider a decision if the member served on the panel originally hearing an appeal and a motion for reconsideration is filed prior to an appeal to the Court of Appeals

(4) The continued service of a member as provided in subsection (3) of this section shall not prevent a successor from taking office at the time prescribed in subsection (2) of this section

(5) 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 However, any member of the board who would be entitled to receive a per diem except for being employed in full-time public service may receive the payment if service on the board is performed while the member is not under obligation to perform contractual teaching or administrative duties

(6) 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

(7) 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, 1983 c 777 §1, 1985 c 216 §1]

342.934 Procedure for reduction of teacher staff due to funding or administrative decision. (1) The procedure for reduction in probationary and 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 or adjustment of classes due to administrative decision shall be as provided in this section However, nothing in this section is intended to interfere with the right of a fair dismissal district to discharge, remove or fail to renew the contract of a probationary teacher pursuant to ORS 342 835

(2) The school district shall make every reasonable effort to

(a) Transfer teachers of courses scheduled for discontinuation to other positions for which they are qualified

(b) Combine positions in a manner which allows teachers to remain qualified so long as the combined positions meet the curriculum needs of the district and the competence consideration specified in subsection (4) of this section

(3) In determining teachers to be retained when a school district reduces its staff under this section, the school district shall

(a) Maintain the affirmative action policy of the district, including at the minimum maintaining the following

(A) The approximate proportion of women to men and minorities to nonminorities in administration, and

(B) The approximate proportion of minorities in teaching positions in which these persons are underrepresented Minorities shall be considered underrepresented when the percentage of teaching positions held by all minorities in the district falls below the percentage of all minorities in the population of the county or counties in which the district is located As used in this subparagraph "minorities" means racial minority

(b) Determine whether teachers to be retained hold proper certification to fill the remaining positions

(c) Determine seniority of teachers to be retained, based on the first day of actual service with the school district Ties shall be broken by drawing lots

(d) Determine competence and merit of teachers, if necessary, under subsection (4) of this section

(4) If a school district desires to retain a teacher with less seniority than a teacher being released under this section, the district shall determine that the teacher being retained has more competence or merit than the teacher with more seniority who is being released However, nothing in this subsection is intended to limit the operation of paragraph (a) of subsection (3) of this section relating to affirmative action

(5) An administrator shall retain status and seniority as a permanent teacher and voluntarily may return to teaching in a reduction in staff situation However, an administrator who was

never employed as a teacher in the district shall not be eligible to become a nonadministrative teacher in the district if the effect is to displace a nonadministrative permanent teacher

(6) In consultation with its employes or, for those employes in a recognized or certified collective bargaining unit, with the exclusive bargaining representative of that unit, each school district shall establish a procedure for recalling teachers to employment in the district who have been released because of a prospective or actual reduction in staff The procedure so established shall define the criteria for recall and the teacher shall have the right of recall thereunder for two years after the last date of release by the district unless waived as provided in such procedure by rejection of a specific position A permanent teacher who is recalled shall retain the permanent status obtained before the release A probationary teacher who is recalled shall have years taught for the district counted as if the employment had been continuous for purposes of obtaining permanent status

(7) An appeal from a decision on reduction in staff or recall under this section shall be by arbitration under the rules of the Employment Relations Board or by a procedure mutually agreed upon by the employe representatives and the employer The results of the procedure shall be final and binding on the parties Appeals from multiple reductions may be considered in a single arbitration The arbitrator is authorized to reverse the staff reduction decision or the recall decision made by the district only if the district

(a) Exceeded its jurisdiction,

(b) Failed to follow the procedure applicable to the matter before it,

(c) Made a finding or order not supported by substantial evidence in the whole record, or

(d) Improperly construed the applicable law

(8) As used in this section

(a) "Competence" means the ability to teach a subject or grade level based on recent teaching experience or educational attainments, or both, but not based solely on being certificated to teach a subject or grade level

(b) "Merit" means the measurement of one teacher's ability and effectiveness against the ability and effectiveness of another teacher [1981 c 569 §3, 1983 s s c 1 §1]

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 [1965 c 608 §17, 1973 c 298 §8, 1979 c 861 §8, repealed by 1987 c 898 §28]

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 [1977 c 635 §7, renumbered 342 495]

342 990 [Repealed by 1965 c 100 §456]