

# Chapter 339

1991 EDITION

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## DEFINITION

**339.005 Definition for ORS 339.040 and 339.125.** As used in ORS 339.040 and 339.125, unless the context requires otherwise, "administrative office for the county" means the administrative office of the education service district, of the county school district or of a common school district which includes an entire county. [1965 c.100 §273; 1973 c.728 §3; 1987 c.158 §56; 1991 c.167 §23]

## COMPULSORY SCHOOL ATTENDANCE

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

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

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

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

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

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

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

(5) The State Board of Education by rule shall establish procedures whereby, on a semiannual basis, an exemption from compulsory attendance may be granted to the parent or legal guardian of any child 16 or 17 years of age who is lawfully employed full time, lawfully employed part-time and enrolled in school, or enrolled in a community college or other state-registered alternative education program. Such exemption also may

be granted to any child who is an emancipated minor or who has initiated the procedure for emancipation under ORS 109.550 to 109.565. [Amended by 1965 c.100 §276; 1967 c.67 §8; 1971 c.494 §1; 1973 c.728 §1; 1985 c.579 §1; 1989 c.619 §1]

**339.035 Teaching by private teacher or parent; notice; examination; effect of failure; appeal.** (1) As used in this section, unless the context requires otherwise, "superintendent" means the executive officer of the education service district or the county school district serving the school district of which the child is a resident.

(2) Before a child is taught by a parent or private teacher, as provided in ORS 339.030, the parent or private teacher must notify the superintendent in writing. The superintendent shall acknowledge receipt of the notification in writing and inform the superintendent of the school district of the child's residence. The notification must be received and acknowledged before a child is withdrawn from school and thereafter before the start of each school year.

(3) Children being taught as provided in subsection (2) of this section shall be examined annually in the work covered in accordance with the following procedures:

(a) The State Board of Education shall adopt by rule a list of approved comprehensive examinations which are readily available.

(b) The parent shall select an examination from the approved list and arrange to have the examination administered to the child by a qualified neutral person, as defined by rule by the State Board of Education.

(c) The parent shall submit the results of the examination or the completed examination to the superintendent. If a completed examination is submitted, the superintendent shall have it scored and shall notify the parent of the results.

(d) If the superintendent determines after examining the results of the examination that the child is not showing satisfactory educational progress, as defined by rule by the State Board of Education, the superintendent may order the parent or other person having control of the child to send the child to school for the remainder of the school year.

(e) The parent or other person having control of the child may appeal the order to the Superintendent of Public Instruction, whose decision in the matter may be appealed to the circuit court. [1985 c.579 §2; 1989 c.619 §4]

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

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

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

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

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

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

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

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

**339.065 Estimates of attendance; irregular attendance; excused absences.** (1) In estimating regular attendance for purposes of the compulsory attendance provisions of ORS 339.005 to 339.030 and 339.040 to 339.145, 339.420 and 339.990, the principal or teacher shall consider all unexcused absences. Eight unexcused one-half day absences in any four-week period during which the school is in session shall be considered irregular attendance.

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

(3) Any pupil may be excused from attendance by the district school board for a

period not to exceed five days in a term of three months or not to exceed 10 days in any term of at least six months. Any such excuse shall be in writing directed to the principal of the school which the pupil attends. [1965 c.100 §281; 1973 c.728 §4; 1987 c.168 §57]

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

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

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

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

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

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

## ADMISSION OF PUPILS; TUITION AND FEES

**339.115 Admission of pupils; waiver.** (1) Except as provided in ORS 336.165 au-

thorizing tuition for courses not part of the regular school program, the district school board shall admit free of charge to the schools of the district all persons between the ages of 5 and 19 residing therein. The person whose 19th birthday occurs during the school year shall continue to be eligible for a free and appropriate public education for the remainder of the school year. However, a district school board may admit other nonresident persons, determine who is not a resident of the district and may fix rates of tuition for nonresidents. A district must admit an otherwise eligible person who has not yet attained 21 years of age if the person is:

(a) Receiving special education; or

(b) Shown to be in need of additional education in order to receive a Certificate of Initial or Advanced Mastery.

(2) The person shall apply to the board of directors of the school district of residence for admission after the 19th birthday as provided in subsection (1) of this section. A person aggrieved by a decision of the local board may appeal to the State Board of Education. The decision of the state board is final and not subject to appeal.

(3) Notwithstanding ORS 332.595 (1), a school district shall not exclude from admission a child located in the district solely because the child does not have a fixed place of residence or solely because the child is not under the supervision of a parent, guardian or person in a parental relationship.

(4) A child entering the first grade during the fall term shall be considered to be six years of age if the sixth birthday of the child occurs on or before September 1. A child entering kindergarten during the fall term shall be considered to be five years of age if the fifth birthday of the child occurs on or before September 1. However, nothing in this section prevents a district school board from admitting free of charge a child whose needs for cognitive, social and physical development would best be met in the school program, as defined by policies of the district school board, to enter school even though the child has not attained the minimum age requirement but is a resident of the district. [1965 c.100 §285; 1971 c.410 §1; 1977 c.463 §1; 1983 c.193 §1; 1987 c.283 §2; 1989 c.132 §1; 1989 c.215 §1; 1991 c.693 §26]

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

**339.125 Admission of nonresident pupils; costs.** (1) The district school board may contract with the district school board of any other district for the admission of pupils in schools of the other district. The contract shall be in writing upon forms furnished by the Department of Education. Expense in-

curred shall be paid out of the school funds of the district sending such pupils. If the district sending the pupils fails to pay the expense so incurred according to the terms of the contract, the administrative office for the county containing such school district, after satisfactory proof of such failure, shall deduct the amount of the unpaid expense from the amount due the school district at the next regular apportionment. The treasurer shall pay the amount of the reduced apportionment out of the county school fund.

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

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

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

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

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

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

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

**339.145 Admission to adult education program or community college; fees.** Persons 16 years of age or older and persons who have graduated from high school may enroll in the adult education program of a

school district, or community college district, subject to the terms and conditions the district school board may establish. [1965 c.100 §288; 1967 c.67 §9; 1971 c.494 §2]

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

**339.155 Prohibitions of certain fees as condition of admission; allowable fees.** (1) No district school board shall require payment of fees as a condition of admission to those pupils entitled under the law to free admission. However, the following are not considered as conditions of admission:

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

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

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

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

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

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

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

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

(b) Admission fees or charges for extra-curricular activities where pupil attendance is optional.

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

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

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

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

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

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

### CERTAIN RESIDENTIAL PROGRAMS

**339.165** [1971 c.402 §1; 1973 c.327 §1; 1981 c.404 §1; 1987 c.533 §1; 1989 c.620 §1; repealed by 1991 c.780 §30]

**Note:** The repeal of 339.165 by section 30, chapter 780, Oregon Laws 1991, becomes operative June 30, 1992. See section 38, chapter 780, Oregon Laws 1991. The text (1989 Edition) is set forth for the user's convenience.

**339.165 Definitions for ORS 339.165 to 339.195.** As used in ORS 339.165 to 339.195, unless the context requires otherwise:

(1) "Attending district" means the school district in which the dependent child has been placed.

(2)(a) "Dependent child" means a person between five and 21 years of age who:

(A) Through placement by a state agency or by a private, licensed child-caring agency, lives in a residential program authorized to provide care to five or more persons;

(B) Through placement by the Children's Services Division or a private, licensed child-caring agency, lives in a residential program authorized to provide care to one or more persons if the person is placed as the result of being found within the jurisdiction of the juvenile court under ORS 419.476 (1)(a) or (f); or

(C) Through placement by the Mental Health and Developmental Disability Services Division, lives in a residential program authorized to provide care to one or more persons, if the person requires special education services and the educational costs exceed two times the statewide average current expenditure per student.

(b) "Dependent child" does not include:

(A) A person living in a family foster home under ORS 418.625 to 418.645 which provides care to fewer than five persons;

(B) A state training center for the mentally retarded;

(C) A juvenile detention facility; or

(D) A state-funded program under ORS 343.261, 343.961 or 346.010.

(3) "Guardian" means a natural person appointed as a guardian of a minor or incapacitated person under ORS 126.060 to 126.143. "Guardian" does not include the Children's Services Division or a public entity.

(4) "Placement" means physically locating or approval for funding for care in a residential program by a state agency or by a private, licensed child-caring agency. "Placement" includes preadmission screening and approval by the Mental Health and Developmental Disability Services Division under ORS 410.060.

(5) "Resident district" means the school district in which the parents or legal guardian, if any, of the dependent child resided at the time of placement. If the dependent child has no parents or legal guardian, or none can be located, the resident district shall be the attending district.

(6) "Residential program" means a home, facility or treatment program authorized to provide residential care.

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

**339.175 Notice and consultation before establishing, expanding or changing residential program.** (1) Prior to establishing or expanding a residential program authorized to provide care to five or more children or changing the type of educational services provided or the category of children being served by the residential program in any school district, the authorities of the agency establishing or altering such a program shall notify in writing and confer with the superintendent or the district school board of any substantially affected district to determine the impact of the additional children and services upon the facilities and program of the district.

(2) The notification required by subsection (1) of this section must occur at least three months prior to the establishment or expansion of the residential program or prior to the time when the type of educational services or category of children changes. The three-month period, or any part of it, may be waived by agreement of the agency and the affected school district.

(3) This section does not apply to temporary changes in, or expansion of, residential programs of less than 30 days' duration that result from meeting emergency needs of children. [1971 c.402 §2; 1979 c.836 §7; 1985 c.264 §1; 1989 c.620 §2; 1991 c.780 §35]

**Note:** The amendments to 339.175 by section 35, chapter 780, Oregon Laws 1991, become operative June 30, 1992. See section 38, chapter 780, Oregon Laws 1991. The text (1989 Edition) is set forth for the user's convenience.

**339.175** (1) Prior to establishing or expanding a residential program authorized to provide care to five or more dependent children or changing the type of educational services provided or the category of dependent children being served by the residential program in any school district, the authorities of the agency establishing or altering such a program shall notify in writing and confer with the superintendent or the district school board of any substantially affected district to determine the impact of the additional children and services upon the facilities and program of the district.

(2) The notification required by subsection (1) of this section must occur at least three months prior to the establishment or expansion of the residential program or prior to the time when the type of educational services or category of children changes. The three-month period, or any part of it, may be waived by agreement of the agency and the affected school district.

(3) This section does not apply to temporary changes in, or expansion of, residential programs of less than 30 days' duration that result from meeting emergency needs of children.

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

**339.185** [1971 c.402 §3; 1973 c.327 §2; 1979 c.836 §1; 1983 c.731 §8; 1985 c.523 §1; 1987 c.318 §1; 1987 c.533 §2; 1989 c.620 §3; 1991 c.795 §10; repealed by 1991 c.780 §30]

**Note:** The repeal of 339.185 by section 30, chapter 780, Oregon Laws 1991, becomes operative June 30, 1992. See section 38, chapter 780, Oregon Laws 1991. The text,

as amended by section 10, chapter 795, Oregon Laws 1991, is set forth for the user's convenience.

**339.185 Admission of dependent children to school or other program where placed; tuition due from resident district; computation of tuition.** (1) A dependent child must be admitted to the public schools of the attending district.

(2) Except as provided in ORS 343.961 to 343.980, the attending district shall provide or cause to be provided appropriate education to dependent children, including the identification and evaluation of such children for purposes of determining their eligibility as handicapped children to receive special education services enumerated in ORS 343.035 (4) and 343.650 (2). The education may be provided by the attending district or by contract with an adjacent school district, an education service district, a private education agency, a community college, higher education programs or, if the program meets the criteria established under ORS 343.045, any other appropriate program. The instruction may be given in the facilities of such districts or in facilities provided by the education agency or the residential program in which the child resides. Suspension or expulsion of a dependent child from a regular school program does not relieve the district of the obligation to provide instruction in the residential program in which the child resides or in another appropriate facility.

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

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

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

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

(7) The Superintendent of Public Instruction shall determine the amount of tuition based upon the average current expenditure per resident average daily membership statewide. For handicapped students determined eligible for special education under State Board of Education rules, the superintendent shall add to the tuition payment one additional tuition payment for each student receiving special education when the student's educational costs exceed two times the statewide average current expenditure per student. The figure so determined shall be divided by the number of days taught in the attending district submitting the tuition notification. This figure multiplied by the total days' attendance of the individual child in the attending district shall represent the tuition charge to the resident district. The department shall adjust the amounts due each district so as to cause districts to remit only the net amounts due as between districts.

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

**EDUCATION AT YOUTH CARE  
CENTERS AND JUVENILE DETENTION  
CENTERS**

**339.195 Responsibility for education at youth care centers.** (1) Every child at a youth care center, as defined in ORS 420.855, which is operated by a private agency, is entitled to receive appropriate education suited to the needs of the child in the least restrictive environment in which the child can function until the child is no longer of compulsory school age or receives a high school diploma or an equivalent.

(2) The district shall develop an educational plan for the children in the youth care center in consultation with the director of the center. The plan shall be submitted to the Department of Education annually. In the second and subsequent years, the district also shall report on the operation of the previous year's plan in such detail as the State Board of Education shall specify by rule.

(3) Payments from the Department of Education from funds appropriated specifically for this section shall be distributed on a per capita basis according to the number of children for whom the Children's Services Division contracts for care and rehabilitation under ORS 420.855 to 420.885.

(4) In order to be eligible for any funds under subsection (3) of this section, an attending district must provide education leading to a diploma or equivalent.

(5) The Superintendent of Public Instruction shall have the authority to enforce the provisions of ORS 339.175 to 339.195. If a district fails to comply, the superintendent shall find the district deficient and shall apply the penalty provided in ORS 327.103.

(6) The State Board of Education shall adopt rules to implement this section.

(7) Nothing in this section limits or otherwise applies to educational rights of children in youth care centers operated by public agencies. [1987 c.817 §2; 1991 c.780 §36]

**Note:** The amendments to 339.195 by section 36, chapter 780, Oregon Laws 1991, become operative June 30, 1992. See section 38, chapter 780, Oregon Laws 1991. The text (1989 Edition) is set forth for the user's convenience.

**339.195** (1) Every child at a youth care center, as defined in ORS 420.855, which is operated by a private agency, is entitled to receive appropriate education suited to the needs of the child in the least restrictive environment in which the child can function until the child is no longer of compulsory school age or receives a high school diploma or an equivalent. The child is a dependent child within the meaning of ORS 339.165.

(2) The attending district shall provide the education in the manner described in ORS 339.185 (2) and shall develop an educational plan for the children in the youth care center in consultation with the director of the center. The plan shall be submitted to the Depart-

ment of Education annually. In the second and subsequent years, the attending district also shall report on the operation of the previous year's plan in such detail as the State Board of Education shall specify by rule.

(3) If the child described in subsection (1) of this section is at a youth care center located in the school district of which the child is a resident, the school district is responsible for the education of the child.

(4) Payments from the Department of Education from funds appropriated specifically for this section shall be distributed on a per capita basis according to the number of children for whom the Children's Services Division contracts for care and rehabilitation under ORS 420.855 to 420.885 but shall exclude those for whom a handicapped billing is made under ORS 339.185.

(5) In order to be eligible for any funds under subsection (4) of this section, an attending district must provide education leading to a diploma or equivalent.

(6) The Superintendent of Public Instruction shall have the authority to enforce the provisions of ORS 339.165 to 339.195. If an attending district fails to comply, the superintendent shall find the district deficient and shall apply the penalty provided in ORS 327.103.

(7) By January 1, 1988, the State Board of Education shall adopt rules to implement this section.

(8) Nothing in this section limits or otherwise applies to educational rights of children in youth care centers operated by public agencies.

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

**339.205 Responsibility for education at juvenile detention facilities.** (1) A school district shall provide or cause to be provided appropriate education for children placed in a detention facility located in the school district. The education may be provided by the school district or an education service district.

(2) The school district or education service district shall notify the resident district of each child placed in the detention facility and may bill the resident district for the costs of the child's education. The billing may be made annually. The billing shall be accompanied by a signed affidavit from the school district or education service district, stating the period of time the child was in the detention facility. The resident district shall pay the actual cost of the child's education. The district may claim State School Fund reimbursement under ORS 327.006 to 327.133 for each child who is in a detention facility for more than 10 days in the school year.

(3) As used in this section:

(a) "Detention facility" has the meaning given it in ORS 419.472 (4).

(b) "Resident district" means the school district in which the parents or legal guardian, if any, of the child resided at the time of placement. If the child has no parents or legal guardian, or none can be located, the resident district shall be the school district in which the child is physically located. [1991 c.833 §1]

Note: Legislative Counsel is directed by section 32, chapter 780, Oregon Laws 1991, to substitute for the Basic School Support Fund words designating the State School Fund. The change is operative June 30, 1992. See section 38, chapter 780, Oregon Laws 1991.

### PUPIL CONDUCT AND DISCIPLINE

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

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

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

(2) Pursuant to the written policies of a district school board, an individual who is a teacher, administrator, school employee or school volunteer may use reasonable physical force upon a student when and to the extent the individual reasonably believes it necessary to maintain order in the school or classroom or at a school activity or event, whether or not it is held on school property. The district school board shall adopt written policies to implement this subsection and shall inform such individuals of the existence and content of these policies.

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

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

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

not extend beyond the second term or semester.

(6) A school district board shall consider and propose to the pupil prior to expulsion or leaving school, and document to the parent, legal guardian or person in parental relationship, alternative programs of instruction or instruction combined with counseling for the pupil that are appropriate and accessible to the pupil in the following circumstances:

(a) When a pupil is expelled pursuant to subsection (4) of this section;

(b) Following a second or subsequent occurrence within any three-year period of a severe disciplinary problem with a pupil;

(c) When it has been determined that a pupil's attendance pattern is so erratic that the pupil is not benefiting from the educational program; or

(d) When a parent or legal guardian applies for a pupil's exemption from compulsory attendance on a semiannual basis as provided in ORS 339.030 (5).

(7) Information on alternative programs provided under subsection (6) of this section shall be in writing. The information need not be given to the pupil and the parent, guardian or person in parental relationship more often than once every six months unless the information has changed because of the availability of new programs.

(8)(a) The authority to discipline a pupil does not authorize the infliction of corporal punishment. Every resolution, bylaw, rule, ordinance or other act of a district school board or of the Department of Education that permits or authorizes the infliction of corporal punishment upon a pupil is void and unenforceable.

(b) As used in this subsection, "corporal punishment" means the willful infliction of, or willfully causing the infliction of, physical pain on a pupil.

(c) As used in this subsection, "corporal punishment" does not mean:

(A) The use of physical force authorized by ORS 161.205 for the reasons specified therein; or

(B) Physical pain or discomfort resulting from or caused by participation in athletic competition or other such recreational activity, voluntarily engaged in by a pupil. [1965 c.100 §289; 1971 c.561 §1; 1975 c.665 §1; 1979 c.739 §1a; 1979 c.836 §2; 1981 c.246 §2; 1989 c.619 §2; 1989 c.889 §1]

**339.253** [1979 c.739 §2; 1981 c.246 §3; 1987 c.675 §3; 1989 c.619 §3; renumbered 339.620 in 1989]

**339.255** [1979 c.836 §3; 1981 c.246 §4; renumbered 339.640 in 1989]

**339.260 Injury to school property by pupil; withholding records until damage**

**paid; waiver; rules; inspection.** (1) No pupil shall wilfully damage or injure any school property or threaten or wilfully injure any fellow pupil or faculty member.

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

(3) Any school district which is owed a fee or the property of which has been lost or wilfully damaged or injured may withhold the grade reports, diploma or records of the pupil who owes the fee or is responsible for the loss or damage until the pupil or the parent or guardian of the pupil has paid the amount owed.

(4) When the pupil or the parent or guardian of the pupil is unable to pay the amount owed under subsection (3) of this section, the school district may waive the amount owed.

(5) The parent or guardian of such pupil shall be liable for damages as otherwise provided by law.

(6) Notwithstanding subsections (3) and (4) of this section, a school district shall not withhold the records of a pupil in the circumstances described in ORS 336.195 (3) or when such records are requested by another school district for use in the appropriate placement of the pupil.

(7) Before any grade reports, diplomas or records are withheld under subsections (3) or (4) of this section, a school district board of directors shall adopt rules of procedure which insure that the rights of the pupil to due process are protected.

(8) Nothing in subsection (3) of this section is intended to prevent inspection of student records by a parent or legal guardian pursuant to ORS 336.195 (2) or 343.173. [1965 c.100 §290; 1971 c.561 §4; 1985 c.614 §1]

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

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

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

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

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

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

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

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

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

## RELIGIOUS INSTRUCTION

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

## INTERSCHOLASTIC ACTIVITIES

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

**339.460 Home school students authorized to participate in interscholastic activities; conditions.** (1) Home school students shall not be denied by a school district the opportunity to participate in all interscholastic activities if the student fulfills the following conditions:

(a) The student must be in compliance with all rules governing home schooling and shall provide the school administration with acceptable documentation of compliance.

(b) The student must meet all school district eligibility requirements with the exception of:

(A) The school district's school or class attendance requirements; and

(B) The class requirements of the voluntary association administering interscholastic activities.

(c) The student must achieve a minimum score on the achievement test required annually of all home schooling students which shall be taken at the end of each year, and which shall be used to determine eligibility for the following year. The minimum, composite test score, to be determined by the State Board of Education, shall not be higher than the 50th percentile as based on national norms.

(d) Any public school student who chooses to be home schooled must also meet

the minimum test standards as described in paragraph (c) of this subsection. The student may participate while awaiting test results.

(e) Any public school student who has been unable to maintain academic eligibility shall be ineligible to participate in interscholastic activities as a home school student for the duration of the school year in which the student becomes academically ineligible and for the following year. The student must take the required tests at the end of the second year and meet the standards described in paragraph (c) of this subsection to become eligible for the third year.

(f) The home school student shall be required to fulfill the same responsibilities and standards of behavior and performance, including related class or practice requirements, of other students participating in the interscholastic activity of the team or squad and shall be required to meet the same standards for acceptance on the team or squad. The home school student must also comply with all public school requirements during the time of participation.

(g) A home school student participating in interscholastic activities must reside within the attendance boundaries of the school for which the student participates.

(2) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Home school students" are those children taught by private teachers or parents as described in ORS 339.035.

(c) "Interscholastic activities" includes but is not limited to athletics, music, speech, and other related activities. [1991 c.914 §1, 2]

### STUDENT ACCOUNTING SYSTEM

**339.505 Definitions for ORS 339.505 to 339.520.** (1) For purposes of the student accounting system required by ORS 339.515, the following definitions shall be used:

(a) "Graduate" means an individual who has not reached 21 years of age or whose 21st birthday occurs during the current school year; has met all state requirements and local requirements for attendance, competence and units of credit for high school; and has received one of the following:

(A) A high school diploma issued by a school district.

(B) An adult high school diploma issued by an authorized community college.

(C) A modified high school diploma based on the successful completion of an individual education plan.

(b) "School dropout" means an individual who:

(A) Has enrolled for the current school year, or was enrolled in the previous school year and did not attend during the current school year;

(B) Is not a high school graduate; and

(C) Has withdrawn from school.

(c) "School dropout" does not include a student described by at least one of the following:

(A) Student has transferred to another educational system or institution that leads to graduation and the school district has received a written request for the transfer of the student's records or transcripts.

(B) Student is deceased.

(C) Student is participating in home instruction paid for by the district.

(D) Student is being taught by a private teacher or parent pursuant to ORS 339.030 (3).

(E) Student is participating in a Department of Education approved public or private education program, including an alternative education program, a Department of Human Resources facility or a hospital education program.

(F) Student is temporarily residing in a juvenile detention facility or a Children's Services Division certified shelter care program.

(G) Student is enrolled in a foreign exchange program.

(H) Student is temporarily absent from school because of suspension, a family emergency, or severe health or medical problems which prohibit the student from attending school.

(2) The State Board of Education shall prescribe by rule when an unexplained absence becomes withdrawal, when a student is considered enrolled in school, acceptable alternative programs under ORS 339.605 to 339.640 and the standards for excused absences for purposes of ORS 339.065 for family emergencies and health and medical problems. [1991 c.805 §4]

**339.510 Student accounting system; goals.** Pursuant to rules of the State Board of Education, the Department of Education shall establish and maintain a student accounting system that has as its minimum goals:

(1) Providing a timely accounting of students who withdraw from school before graduating or completing the normal course of study;

(2) Providing reasons why students withdraw from school;

(3) Identifying patterns in the information and assessment of factors that may assist the department and the school district to develop programs addressing the problems of dropouts; and

(4) Providing school districts with management tools for assessing which students are dropouts and why they drop out. [1991 c.805 §1]

**339.515 Uniform reporting system; training and technical assistance in using system.** (1) In order to meet the goals described in ORS 339.510, the Department of Education shall develop a system of uniform reporting and shall assist school districts in establishing such systems, with appropriate allowances being made for the size of districts and their existing reporting systems.

(2) The department shall provide training and technical assistance to school district personnel so that, statewide, the student accounting system produces uniform and accurate reports. [1991 c.805 §2]

**339.520 Information required on certain students who withdraw from school.** The minimum information to be reported on students who withdraw from school and do not transfer to another educational system prior to becoming graduates shall be:

(1) Age, sex and racial-ethnic designation of the student;

(2) Date of withdrawal;

(3) Reason for withdrawal, including but not limited to expulsion, work or death;

(4) Number of credits earned toward meeting graduation requirements, if applicable, or grade level, of the reporting district;

(5) Length of time the student was enrolled in the reporting district;

(6) Information relating to the disposition of the student after withdrawing, including but not limited to GED participation, alternative certificate of participation, transfer to mental health or juvenile facility or participation in a substance abuse program or other dispositions listed in ORS 339.505 (1)(b) and (c); and

(7) Information on why the student withdrew as such information relates to academics, conduct standards, interpersonal relationships, relation with school personnel, personal characteristics such as illness, lack of motivation, home and family characteristics, alternative education participation and employment information. [1991 c.805 §3]

### ALTERNATIVE EDUCATION PROGRAM

**339.605 Definition for ORS 339.605 to 339.640.** As used in ORS 339.605 to 339.640,

“alternative education program” means a school or separate class group designed to assist students to achieve the goals of the curriculum in a manner consistent with their learning styles and needs. [1987 c.675 §1]

**339.615 Goals; district responsibility; rules.** (1) In implementing alternative education programs, district school boards shall maintain learning situations that are flexible with regard to environment, time, structure and pedagogy.

(2) Students participating in alternative education programs are considered to be the responsibility of the resident district for purposes of ORS 332.072.

(3) The State Board of Education by rule shall define the accountable activities and allowable credit for these activities in alternative education programs. [1987 c.675 §2]

**339.620 Enrollment in alternative program; costs; private program not required to employ certificated personnel; when district not required to provide alternative program; validity of teaching certificate.** (1) Pursuant to the proposal required in ORS 339.250 (6)(a) to (c), the parent or guardian with the approval of the attending district may enroll the pupil in one of the proposed appropriate and accessible public alternative programs or the private alternative programs of instruction or instruction combined with counseling registered with the Department of Education. If the child is determined to be eligible for special education under ORS 343.221 to 343.236 and 343.261 to 343.293, the program must be approved by the Department of Education prior to the placement of the pupil in the program. The pupil enrolled pursuant to this subsection shall be considered enrolled in the schools of the district for purposes of the distribution of the State School Fund.

(2) The alternate program in which the pupil enrolls shall notify the school district in which the pupil or the pupil's parents or legal guardian, if any, resided at the time the pupil enrolled of the child's enrollment and may bill the school district for tuition. The billing may be made annually or at the end of each term or semester of the alternate program. For each full-time equivalent pupil enrolled in the alternative education program, as defined in ORS 339.605, the school district shall pay the actual cost of the program or an amount at least equivalent to 80 percent of the district's estimated current year's average per pupil net operating expenditure, whichever is lesser, in accordance with rules adopted by the State Board of Education. The alternate program shall be accountable for the expenditures of all State School Fund and other local school support

moneys, providing the school district with an annual statement of such expenditures.

(3) A private alternative program that is registered with the Department of Education is not required to employ only licensed teachers or administrators. Teachers and administrators in such private programs shall not be considered employees of any district for purposes of ORS 342.173.

(4) A school district is not required to provide a public alternative program if there are public or private alternative programs that are appropriate and accessible to the pupil to which a pupil can be referred.

(5) Any Oregon teaching license is valid for teaching all subjects and grade levels in an alternative education program operated by a school district or education service district. [Formerly 339.253; 1991 c.780 §21]

**Note:** The amendments to 339.620 by section 21, chapter 780, Oregon Laws 1991, become operative June 30, 1992. See section 38, chapter 780, Oregon Laws 1991. 339.620 (1989 Edition) is set forth for the user's convenience.

**339.620** (1) Pursuant to the proposal required in ORS 339.250 (6)(a) to (c), the parent or guardian with the approval of the attending district may enroll the pupil in one of the proposed appropriate and accessible public alternative programs or the private alternative programs of instruction or instruction combined with counseling registered with the Department of Education. If the child is determined to be eligible for special education under ORS 343.221 to 343.236 and 343.261 to 343.293, the program must be approved by the Department of Education prior to the placement of the pupil in the program. The pupil enrolled pursuant to this subsection shall be considered enrolled in the schools of the district for purposes of the distribution of the Basic School Support Fund.

(2) The alternate program in which the pupil enrolls shall notify the school district in which the pupil or the pupil's parents or legal guardian, if any, resided at the time the pupil enrolled of the child's enrollment and may bill the school district for tuition. The billing may be made annually or at the end of each term or semester of the alternate program. For each full-time equivalent pupil enrolled in the alternative education program, as defined in ORS 339.605, the school district shall pay the actual cost of the program or an amount at least equivalent to 80 percent of the district's estimated current year's average per pupil net operating expenditure, whichever is lesser, in accordance with rules adopted by the State Board of Education. The alternate program will be accountable for the expenditures of all basic school and other local school support funds, providing the school district with an annual statement of such expenditures.

(3) A private alternative program that is registered with the Department of Education is not required to employ only licensed teachers or administrators. Teachers and administrators in such private programs shall not be considered employees of any district for purposes of ORS 342.173.

(4) A school district is not required to provide a public alternative program if there are public or private alternative programs that are appropriate and accessible to the pupil to which a pupil can be referred.

(5) Any Oregon teaching license is valid for teaching all subjects and grade levels in an alternative education program operated by a school district or education service district.

**339.623 Rules governing education for pregnant and parenting students.** (1) The State Board of Education shall establish by rule procedures for considering and obtaining special services for pregnant and parenting students. Such rules shall include, but not be limited to, the obligation of the school district to:

(a) Inform pregnant and parenting students and their parents of the availability of such services in the school district, education service district or in the community;

(b) Facilitate the provision of such services, including counseling, life skills and parenting education, child care, transportation, career development and health and nutrition services to pregnant and parenting students;

(c) Inform pregnant and parenting students and their parents of the availability of resources provided by other agencies, including health and social services;

(d) Provide educational programs and schedules that address the individual learning styles and needs of pregnant and parenting students; and

(e) Develop individualized educational programs or services, or both, to address the needs of pregnant or parenting students when their educational needs cannot be met by the regularly provided school program.

(2) Each school district shall adopt policies and guidelines for implementation of the section in a manner consistent with the rules of the state board adopted under subsection (1) of this section.

(3) No pregnant or parenting student shall be excluded from the public schools solely on the basis of pregnancy or parenthood.

(4) For purposes of reporting enrollments, school districts may count eligible students who are receiving individualized programs or services, or both, as described in paragraph (e) of subsection (1) of this section, in the same category as students eligible for special education as children with disabilities under ORS 343.035. [Formerly 343.187]

**339.625 Notification of availability of program; rulemaking.** The State Board of Education shall adopt rules regarding district notification to parents and students of the availability of alternative programs, the law regarding alternative programs and the procedures for requesting district school boards to establish alternative programs. [1987 c.675 §4]

**339.635 District evaluation of program.** Each district operating, participating in or contracting for, an alternative educa-

tion program shall evaluate each program annually. [1987 c.675 §5]

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

(2) The failure to cause the proposal of alternative programs shall not be grounds for a civil action against the school district. [Formerly 339.255]

## PENALTIES

**339.990 Penalties.** Violation of ORS 339.020 or the requirements of ORS 339.035 is punishable, upon conviction, by a fine of not more than \$100, or by imprisonment in the county jail for not more than 30 days, or both. [Amended by 1965 c.100 §299; 1967 c.67 §10; 1985 c.597 §3]

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## CHAPTER 340

[Reserved for expansion]