

Chapter 339

1993 EDITION

School Attendance; Admission; Discipline

DEFINITION

339.005 Definition for ORS 339.040 and 339.125

COMPULSORY SCHOOL ATTENDANCE

- 339.010 School attendance required; age limits
339.020 Duty to send children to school
339.030 Exemptions from compulsory school attendance
339.035 Teaching by private teacher or parent; notice; examination; effect of failure; appeal
339.040 Attendance supervisors; appointment; compensation
339.055 Duties of attendance supervisors
339.065 Estimates of attendance; irregular attendance; excused absences
339.080 Nonattendance notice to parents and school officials
339.090 Determination of compliance; notice to district superintendent

ADMISSION OF PUPILS

- 339.115 Admission of pupils; waiver
339.125 Admission of nonresident pupils; costs

RESIDENCY

- 339.133 Residency of student for school purposes; how determined
339.137 Residency of student at youth care center

TUITION AND FEES

- 339.141 Tuition prohibited for regular school program; other programs
339.147 When tuition authorized; waiver of tuition and fees
339.155 Prohibitions of certain fees as condition of admission; allowable fees

PUPIL CONDUCT AND DISCIPLINE

- 339.240 Rules of pupil conduct, discipline and rights; duties of state board and district school boards
339.250 Duty of pupil to comply with rules; discipline; written information on alternative programs required
339.260 Injury to school property by pupil; withholding records until damage paid; waiver; rules; inspection
339.270 Assessment of costs of school property damage against responsible pupil or parents or guardian; action to recover; limitation

RELIGIOUS INSTRUCTION

- 339.420 Child excused to receive religious instruction

INTERSCHOLASTIC ACTIVITIES

- 339.430 Approval of voluntary organizations to administer interscholastic activities required;

suspension or revocation of approval; appeal of organization's ruling

- 339.450 Prohibited grounds for denying participation in interscholastic athletics
339.460 Home school students authorized to participate in interscholastic activities; conditions

STUDENT ACCOUNTING SYSTEM

- 339.505 Definitions for ORS 339.505 to 339.520
339.510 Student accounting system; goals
339.515 Uniform reporting system; training and technical assistance in using system
339.520 Information required on certain students who withdraw from school

TRAFFIC PATROL

- 339.650 "Traffic patrol" defined
339.655 Traffic patrols authorized; medical benefits; rules
339.660 Rules on traffic patrols; eligibility; authority
339.665 Intergovernmental cooperation and assistance in connection with traffic patrols

MISCELLANEOUS

- 339.860 Issuance of diploma for work completed at certain state institutions
339.865 Possession of tobacco products by person under 18 prohibited at facilities; "facility" defined to include public schools
339.870 Liability of school personnel administering medication
339.875 Procurement and display of flags
339.880 Unauthorized soliciting of pupils prohibited
339.885 Secret societies in public schools prohibited; membership grounds for suspension or expulsion

ENFORCEMENT

- 339.925 Compulsory school attendance infraction procedure

PENALTIES

- 339.990 Penalties

CROSS REFERENCES

- Action for reckless disclosure of certain information from student's records, 30.864
Private schools offering residential programs for children, inspection and review, 418.327
School administrator as guardian of minor child upon appointment by parent, 126.030

339.020

Juvenile court, jurisdiction over children not being provided with education, 419B.100

339.115

Tuition for special education programs prohibited, 343.085

EDUCATION AND CULTURAL FACILITIES

339.240

Hearing to expel minor student, 332.061

339.250

Use of reasonable force on students, 161.205

339.270

Parental liability for torts of child, 30.765

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 419B.550 to 419B.558. [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; 1993 c.546 §138]

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, 339.040 to 339.125, 339.137, 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.158 §57; 1993 c.45 §114]

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 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; 1993 c.45 §115]

339.090 Determination of compliance; notice to district superintendent. 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 notify the district superintendent. [Amended by 1965 c.100 §283; 1993 c.413 §2]

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

339.115 Admission of pupils; waiver. (1) Except as provided in ORS 339.141 authorizing tuition for courses not part of the regular school program, the district school board shall admit free of charge to the schools of the district all persons between the ages of 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 339.133 (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 incurred shall be paid out of the school funds of the district sending such pupils. If the district sending the pupils fails to pay the expense so incurred according to the terms of the contract, the administrative office for the county containing such school district, after satisfactory proof of such failure, shall deduct the amount of the unpaid expense from the amount due the school district at the next regular apportionment. The county

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; 1993 c.45 §116]

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

RESIDENCY

339.133 Residency of student for school purposes; how determined. (1) Except as provided in subsection (3), (4) or (6) of this section, children between the ages of 4 and 18 shall be considered resident for school purposes in the school district in which their parents, guardians or persons in parental relationship to them reside.

(2) Nonemancipated individuals between the ages of 4 and 18 living outside the geographic area of the school district for such reasons as attending college, military service, hospital confinement or employment away from home shall be considered resident in the district in which their parents, guardians or persons in parental relationship to them reside.

(3) Those individuals considered legally emancipated from their parents shall be considered resident in the district in which they actually reside, irrespective of the residence of their parents, guardians or persons in parental relationship.

(4) Children placed by public or private agencies who are living in substitute care programs licensed, certified or approved shall be considered resident in the school district in which they reside by placement of the public or private agency.

(5) Persons living temporarily in a school district for the primary purpose of attending a district school shall not be considered legally resident of the district in which they are living temporarily, but shall be considered resident in the district in which they, their parents, guardians or persons in parental relationship to them maintain residency.

(6) Except as provided in ORS 335.090, persons whose legal residence is not within the district but who attend school in the district with the written consent of the affected district school boards shall be considered to be residents of the district in which the person attends school for purposes of the receipt by that district of State School Fund moneys for the person.

(7) For the purposes of subsection (4) of this section, "substitute care program" means family foster care; family group home care, parole foster care, family shelter care, adolescent shelter care and professional group care. [Formerly 332.595]

339.135 [1965 c.100 §287; 1967 c.507 §6; repealed by 1993 c.45 §117]

339.137 Residency of student at youth care center. (1) A student described in ORS 336.580 shall be considered a resident of the school district in which the student resides by reason of the placement under ORS 336.580 for purposes of distribution of the State School Fund.

(2) A student described in subsection (1) of this section must be admitted to the public schools of the school district where the student is placed pursuant to ORS 336.580.

(3) Except as provided in ORS 343.261, 343.961 to 343.980 and 346.010, the school district shall provide or cause to be provided appropriate education to any student described in subsection (1) of this section, including the identification and evaluation of the student for purposes of determining eligibility as a child with disabilities to receive special education and related services enumerated in ORS 343.035 and 343.195 and services related to a disadvantaged child as defined in ORS 343.650. Suspension or expulsion of a student from the 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. [1993 c.45 §119]

339.140 [Repealed by 1965 c.100 §456]

TUITION AND FEES

339.141 Tuition prohibited for regular school program; other programs. (1) For the purposes of this section:

(a) "Regular school program" means the regular curriculum provided in the required full-time day sessions in the schools of the district for grades 1 through 12 and the school program for kindergarten during the period of approximately nine months each year when the schools of the district are normally in operation and does not include summer sessions or evening sessions.

(b) "Tuition" means payment for the cost of instruction and does not include fees authorized under ORS 339.155.

(2) Except as provided in subsection (3) of this section, district school boards may establish tuition rates to be paid by pupils receiving instruction in educational programs, classes or courses of study, including driver instruction, which are not a part of the regular school program. Tuition charges,

if made, shall not exceed the estimated cost to the district of furnishing the program, class or course of study.

(3) Except as provided in ORS 336.805 for driver instruction:

(a) No tuition shall be charged to any resident pupil regularly enrolled in the regular school program for special instruction received at any time in connection therewith.

(b) No program, class or course of study for which tuition is charged, except courses of study beyond the 12th grade, shall be eligible for reimbursement from state funds. [Formerly 336.165]

339.145 [1965 c.100 §288; 1967 c.67 §9; 1971 c.494 §2; repealed by 1993 c.45 §120]

339.147 When tuition authorized; waiver of tuition and fees. (1)(a) Notwithstanding ORS 339.141, no district school board shall require tuition for courses not part of the regular school program, except for driver instruction, from a pupil who is a member of a low-income family in an amount in excess of what the low-income family may receive as money specifically to be used for payment of such tuition.

(b) As used in this subsection, "low-income family" means a family whose children qualify for free or reduced price school meals under a federal program, including but not limited to the National School Lunch Act and the Child Nutrition Act of 1966, and all their subsequent amendments.

(2) A family that does not qualify under subsection (1) of this section but believes the payment of school tuition is a severe hardship may request the district school board to waive in whole or in part the payment of such tuition.

(3) Any parent or guardian who believes that payment of any fee authorized under ORS 339.155 is a severe hardship may request the district school board to waive payment of the fee and the board shall waive in whole or in part the fee upon a finding of hardship. Consideration shall be given to any funds specifically available to the parent, guardian or child for the payment of fees or other school expenses.

(4) No district school board shall impose or collect fees authorized under ORS 339.155 from any student who is a ward of a juvenile court or of the Children's Services Division or the State Office for Services to Children and Families unless funds are available therefor in the court's, office's or division's budget.

(5) No district school board is required to waive any fee imposed under ORS 339.155 (5)(a) or (d). [Formerly 336.168]

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 339.141, but subject to ORS 339.147, 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 339.147 shall be loaned musical instruments by the school district without charge.

(5) Subject to ORS 339.147, 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]

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]

339.170 [Repealed by 1965 c.100 §456]

339.175 [1971 c.402 §2; 1979 c.836 §7; 1985 c.264 §1; 1989 c.620 §2; 1991 c.780 §35; renumbered 336.575 in 1993]

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]

339.190 [Repealed by 1965 c.100 §456]

339.195 [1987 c.817 §2; 1991 c.780 §36; 1993 c.45 §122; 1993 c.676 §50; renumbered 336.580 in 1993]

339.200 [Repealed by 1965 c.100 §456]

339.205 [1991 c.833 §1; 1993 c.18 §90; 1993 c.33 §323; renumbered 336.585 in 1993]

PUPIL CONDUCT AND DISCIPLINE

339.240 Rules of pupil conduct, discipline and rights; duties of state board and district school boards. (1) The State Board of Education in accordance with ORS 183.310 to 183.550 shall adopt rules setting 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. The rules shall be distributed by the Superintendent of Public Instruction to all school districts.

(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 adopted by the State Board of Education under subsection (1) of this section. [1971 c.561 §§2,3; 1993 c.45 §123]

339.250 Duty of pupil to comply with rules; discipline; written information on alternative programs 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 willfully damage or injure any school property or threaten or willfully 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 willfully 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 education records of a pupil in the circumstances described in ORS 326.575 and applicable rules of the State Board of Education or when such records are requested 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 education records by a parent or legal guardian pursuant to ORS 343.173, the rules of the State Board of Education and applica-

ble state and federal law. [1965 c.100 §290; 1971 c.561 §4; 1985 c.514 §1; 1993 c.806 §5]

339.270 Assessment of costs of school property damage against responsible pupil or parents or guardian; 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 willfully causing the injury or damage and against the parent or parents having legal custody of the pupil or against the legal guardian 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 against the parent or parents having legal custody of the pupil or against the legal guardian 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; 1993 c.45 §124]

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

339.430 Approval of voluntary organizations to administer interscholastic activities required; suspension or revocation of approval; appeal of organization's ruling. (1) Voluntary organizations that desire to administer interscholastic activities shall apply to the State Board of Education for approval. The state board shall review the rules and bylaws of the voluntary organization to determine that they do not conflict with state law or rules of the state board. If an organization meets the standards established under ORS 326.051 and its rules and bylaws do not conflict with state law or rules of the state board, the state board shall approve the organization. An approved vol-

untary organization is qualified to administer interscholastic activities.

(2) The state board may suspend or revoke its approval if an approved organization is found to have violated state law or rules of the state board. If an organization is not approved or its approval is suspended or revoked, it may appeal the denial, suspension or revocation as a contested case under ORS 183.310 to 183.550.

(3) A voluntary organization's decisions concerning interscholastic activities may be appealed to the state board, which may hear the matter or by rule may delegate authority to a hearings officer to hear the matter and enter a final order pursuant to ORS 183.464 (1). Such decisions may be appealed under ORS 183.484. [Formerly 326.058]

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 or State Office for Services to Children and Families 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 336.615 to 336.665 and the standards for excused absences for purposes of ORS 339.065 for family emergencies and health and medical problems. [1991 c.805 §4; 1993 c.676 §51]

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 as-

sist 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]

339.605 [1987 c.675 §1; renumbered 336.615 in 1993]

339.615 [1987 c.675 §2; renumbered 336.625 in 1993]

339.620 [Formerly 339.253; 1991 c.780 §21; 1993 c.45 §126; renumbered 336.635 in 1993]

339.623 [Formerly 343.187; renumbered 336.640 in 1993]

339.625 [1987 c.675 §4; renumbered 336.645 in 1993]

339.635 [1987 c.675 §5; renumbered 336.655 in 1993]

339.640 [Formerly 339.255; renumbered 336.665 in 1993]

TRAFFIC PATROL

339.650 "Traffic patrol" defined. As used in ORS 339.650 to 339.665 "traffic patrol" means one or more individuals appointed by a public, private or parochial school to protect pupils in their crossing of streets or highways on their way to or from the school by directing the pupils or by cautioning vehicle operators. [Formerly 336.450]

339.655 Traffic patrols authorized; medical benefits; rules. (1) A district school board may do all things necessary, including the expenditure of district funds, to organize, supervise, control or operate traffic patrols. A district school board may make rules relating to traffic patrols which are consistent with rules under ORS 339.660 (1).

(2) The establishment, maintenance and operation of a traffic patrol does not constitute negligence on the part of any school district or school authority.

(3) A district school board may provide medical or hospital care for an individual who is injured or disabled while acting as a member of a traffic patrol. [Formerly 336.460]

339.660 Rules on traffic patrols; eligibility; authority. (1) To promote safety the State Board of Education after consultation with the Department of Transportation and the Department of State Police, shall make rules relating to traffic patrols.

(2) A member of a traffic patrol:

(a) Shall be at least 18 years of age unless the parent or guardian of the member of the traffic patrol has consented in writing to such membership and ceases to be a member if such consent is revoked.

(b) May display a badge marked "traffic patrol" while serving as a member.

(c) May display a directional sign or signal in cautioning drivers where students use a school crosswalk of the driver's responsibility to obey ORS 811.015. [Formerly 336.470]

339.665 Intergovernmental cooperation and assistance in connection with traffic patrols. (1) The Department of Education and the Department of Transportation shall cooperate with any public, private or parochial school in the organization, supervision, control and operation of its traffic patrol.

(2) The Department of State Police, the sheriff of each county or the police of each city may assist any public, private or parochial school in the organization, supervision,

control or operation of its traffic patrol. [Formerly 336.480]

MISCELLANEOUS

339.860 Issuance of diploma for work completed at certain state institutions.

(1) Any person other than a student at the Oregon State School for the Deaf or the Oregon State School for the Blind upon successful completion of an educational program at elementary or secondary level at a state institution shall receive a diploma evidencing such completion issued by the common or union high school district in which the person last resided prior to commitment to the state institution.

(2) All educational records for the person shall be sent to the common or union high school district issuing the diploma. The school district may make a transcript of such records available upon request in the same manner and in the same form as it makes any other transcript available and shall not therein indicate that any of the educational program was completed in any state institution. [Formerly 332.790]

339.865 Possession of tobacco products by person under 18 prohibited at facilities; "facility" defined to include public schools. (1) A facility shall not permit any person under 18 years of age to possess tobacco products, as defined in ORS 431.840, while the person is present on facility grounds or in facility buildings or attending facility-sponsored activities.

(2) The facility must have written policies prohibiting the possession of tobacco products described in subsection (1) of this section by persons under 18 years of age. The facility must have written plans to implement such policies.

(3) This section does not apply to any person for whom a tobacco or nicotine product has been lawfully prescribed.

(4) As used in this section, "facility" means public or private schools, juvenile training schools or juvenile detention facilities. "Facility" does not include colleges or universities, professional technical schools or community colleges. [Formerly 336.660]

339.870 Liability of school personnel administering medication. A school administrator, teacher or other school employee designated by the school administrator, who in good faith administers medication to a pupil pursuant to written permission of the pupil's parents or guardian and in compliance with the instructions of a physician, is not liable in a criminal action or for civil damages as a result of the administration except for an act or omission

amounting to negligence or willful and wanton misconduct. [Formerly 336.650]

339.875 Procurement and display of flags. Each district school board shall procure a United States flag and an Oregon State flag of suitable sizes and shall cause such flags to be displayed upon or near each public school building during school hours, except in unsuitable weather, and at such other times as the board deems proper. [Formerly 332.100 and then 336.045 and then 336.630]

339.880 Unauthorized soliciting of pupils prohibited. No person shall solicit, receive or permit to be solicited or received from pupils enrolled in public schools, on any public school premises any subscription, donation of money or other thing of value for presentation of testimonials to school officials or for any purpose except such as are authorized by the district school board. [Formerly 336.430 and then 336.620]

339.885 Secret societies in public schools prohibited; membership grounds for suspension or expulsion. (1) No secret society of any kind, including a fraternity or sorority, shall be permitted in any public school.

(2) The district school board may order the suspension or expulsion of any pupil who belongs to a secret society.

(3) This section does not apply to any institution of higher education under the jurisdiction of the State Board of Higher Education. [Formerly 336.440 and then 336.610]

ENFORCEMENT

339.925 Compulsory school attendance infraction procedure. (1) The compulsory school attendance infractions that are established by this chapter are infractions that are subject to ORS 8.665, 153.110 to 153.310 and 153.990. Except as otherwise specifically provided in this chapter, any offense that is designated as a compulsory school attendance infraction is subject to citation and enforcement as provided under ORS 8.665, 153.110 to 153.310 and 153.990.

(2) In addition to any other persons permitted to enforce infractions under ORS 8.665, 153.110 to 153.310 and 153.990, the school district superintendent or education service district superintendent or any employee specifically designated by either superintendent has jurisdiction of and may enforce infractions established under ORS 339.990 in the manner provided under ORS 8.665, 153.110 to 153.310 and 153.990 for the enforcement of infractions.

(3) Prior to issuing the citation described in subsection (4) of this section to a student not regularly attending full-time school, a

school district superintendent or education service district superintendent shall:

(a) Provide a parent or guardian of the student and the student with written notification that:

(A) States that the student is required to attend regularly a full-time school;

(B) Explains that the failure to send the student and maintain the student in regular attendance is a Class B infraction;

(C) States that the superintendent may issue a citation of up to \$100;

(D) Requires the parent or guardian of the student and the student to attend a conference with a designated official; and

(E) Is written in the native language of the parent or guardian of the student.

(b) Schedule the conference described in paragraph (a)(D) of this subsection.

(4) Notwithstanding ORS 1.525 and 153.130, the State Board of Education by rule shall establish the citation form to be used by superintendents for enforcement of infractions established under ORS 339.990. Notwithstanding ORS 153.130 (3), each of the

parts of the citation shall contain the information required by the state board.

(5) All fines and court costs recovered from violations of compulsory school attendance infractions shall be paid to the clerk of the court involved. After deductions of court costs provided by law for the proceeding, the clerk shall pay the remainder of the money to the State Treasurer to be deposited in the Criminal Fine and Assessment Account in the General Fund.

(6) Upon completion of the case, the court shall mail the abstract part of the citation to the Department of Education. [1993 c.413 §4]

PENALTIES

339.990 Penalties. Violation of ORS 339.020 or the requirements of ORS 339.035 is a Class B infraction. [Amended by 1965 c.100 §299; 1967 c.67 §10; 1985 c.597 §3; 1993 c.413 §1]

CHAPTER 340

[Reserved for expansion]

EDUCATION AND CULTURAL FACILITIES
