

Chapter 345

1993 EDITION

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EDUCATION AND CULTURAL FACILITIES

PRIVATE VOCATIONAL SCHOOLS

(Definitions)

345.010 Definitions for ORS 345.010 to 345.470. As used in ORS 345.010 to 345.470 and 345.992 to 345.997:

(1) "Agent" means a person employed by or for a vocational school for the purpose of procuring students, enrollees or subscribers by solicitation in any form, made at a place or places other than the school office or place of business of such school.

(2) "Barbering" means services, when done upon the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when done for instructional purposes for payment. Barbering also means one or more of the following practices:

(a) Practical application of the fundamental skills and elementary sciences, including haircutting, shaving and shampooing;

(b) Application of hair tonics, dressings and rinses;

(c) Massage of the scalp, face and neck and facial and scalp treatments with creams, lotions, oils and other cosmetic preparations, either by hand or mechanical appliances, but such appliances shall not be galvanic or faradic; and

(d) Demonstration of coloring, bleaching, tinting and waving the hair.

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

(4) "Facial technology" has the meaning given in ORS 690.005.

(5) "Hair design" has the meaning given in ORS 690.005.

(6) "License" means the authority the private vocational school has been granted to operate under ORS 345.010 to 345.470.

(7) "Nail technology" has the meaning given in ORS 690.005.

(8) "Registration" means the approval by the superintendent of a teacher or agent to instruct in or to represent the school.

(9) "Superintendent" means Superintendent of Public Instruction.

(10) "Vocational school" or "school" means any private proprietary vocational, technical, home study, correspondence, business, professional or other school instruction, organization or person that offers any instruction or training for the purpose or purported purpose of instructing, training or preparing persons for any vocation or profession. [Amended by 1957 c.279 §1; 1961 c.268 §1; 1965 c.529 §12; 1973 c.239 §1; 1975 c.478 §1; 1977 c.886 §27; 1979 c.387 §1; 1987 c.31 §13; 1989 c.333 §1; 1993 c.267 §19]

(Licensing)

345.015 Application of ORS 345.010 to 345.470. ORS 345.010 to 345.470 do not apply to:

(1) Instruction or training solely a vocational or recreational in nature or to institutions offering such education exclusively.

(2) Schools that the Superintendent of Public Instruction determines are adequately regulated by other means, including but not limited to accreditation by the Northwest Association of Schools and Colleges.

(3) Instruction or training sponsored or offered by a bona fide trade, business, professional or fraternal organization or by a business solely for the organization's membership or the business's employees.

(4) Instruction or training sponsored, offered or contracted by organizations, institutions or agencies, if the instruction or training is advertised or promoted to be in the nature of professional self-improvement but is not advertised or promoted as leading to or fulfilling the requirements for licensing, certification, accreditation or education credentials.

(5) Any baccalaureate or higher degree-granting institution under ORS 348.835 (1) or institution exempted under the provisions of ORS 348.835 (2).

(6) Schools offering only review instruction to prepare a student to take an examination to enter a profession or vocation, where the student has completed prior training related to that profession or vocation.

(7) Courses offered in hospitals which meet standards prescribed by the American Medical Association or national accrediting associations for nursing.

(8) Schools offering only courses of an advanced training or continuing educational nature when offered solely to licensed practitioners and people previously qualified or employed in a related profession or vocation.

(9) Any parochial or denominational institution providing instruction or training relating solely to religion and which does not grant degrees. [Amended by 1961 c.268 §2; 1965 c.529 §13; 1975 c.478 §3; 1979 c.148 §1; 1979 c.387 §2; 1989 c.333 §2; 1993 c.45 §261]

345.020 Duty and powers of Superintendent of Public Instruction; interest in vocational schools prohibited. (1) The superintendent shall administer ORS 345.010 to 345.470 and 345.992 to 345.997 and shall enforce all laws and rules relating to the licensing of vocational schools and agents.

(2) The superintendent may establish procedures whereby schools become eligible to participate in federal student assistance

programs if approved by the United States Department of Education.

(3) The superintendent and the employees of the Department of Education shall not have financial interests in any vocational school and shall not act as agents or employees thereof. [Amended by 1955 c.527 §1; 1961 c.268 §3; 1975 c.478 §4; 1989 c.333 §3]

345.030 Vocational schools to be licensed; requirements; license nontransferable; display of license. (1) No person shall open, conduct or do business as a vocational school in this state without obtaining a license under ORS 345.010 to 345.470.

(2) A license to conduct a vocational school shall be granted only after the applicant has presented proof satisfactory to the Superintendent of Public Instruction or the representative thereof that the applicant complies with applicable standards adopted under ORS 345.325. ORS 670.280 applies to individuals who hold positions of authority or control in the operation of the school and to its faculty members and agents.

(3) A vocational school licensed in any other state must be licensed in this state before establishing a physical presence in this state such as offices or agents, or both, for the purpose of solicitation of students.

(4) The school license is nontransferable. The licensee must give 30 days prior notification to the Department of Education when transferring ownership.

(5) Each vocational school shall display its license in a prominent place.

(6) No vocational school shall be issued a license or have its license renewed until the applicant furnishes the superintendent a financial statement, certified true and accurate and signed by the owner of the school.

(7) No vocational school shall be issued a license or have its license renewed until the applicant provides proof of compliance with the tuition protection policy established by the board pursuant to ORS 345.110. [Amended by 1961 c.268 §4; paragraph (b) of subsection (2) and subsection (3) formerly 345.050; 1975 c.478 §5; 1989 c.333 §4; 1993 c.45 §262]

345.040 Approval of registration of agent required; bonding. (1) No person shall act in this state as an agent for a vocational school domiciled within or outside this state, unless the superintendent has approved the agent's registration as a part of the school's license under ORS 345.010 to 345.470. No person shall act as an agent for a vocational school unless and until the vocational school has obtained a license.

(2) For the purposes of licensing and student protection, persons acting as agents for a vocational school domiciled within or out-

side this state are employees of the school and shall be included under the school's bonding or student protection policy, or both. Agents shall perform their duties and conduct their business in accordance with ORS 345.010 to 345.470.

(3) An agent shall be a person who has attained the age of 18 years, is of good moral character and is otherwise competent and qualified to safeguard and protect the interests of the public. [Amended by 1961 c.268 §5; 1973 c.827 §34; 1975 c.478 §6; 1979 c.744 §16; 1981 c.527 §1; 1989 c.333 §5]

345.050 [Amended by 1961 c.268 §6; renumbered as part of 345.030]

345.060 Appointment of superintendent as agent for service of process; service of process. (1) Every agent for a vocational school not domiciled in this state shall be held to have appointed the superintendent as agent to accept service of all summonses, pleadings, writs and processes in all actions or proceedings brought against the applicant in this state. Service upon the superintendent shall be taken and held in all courts to be as valid and binding as if personal service thereof had been made upon the applicant within this state.

(2) When any summons, pleading, writ or process is served on the superintendent, service shall be by duplicate copies. One of the duplicates shall be filed in the office of the superintendent and the other immediately forwarded by certified mail to the agent thereby affected or therein named, at the agent's last-known post-office address. If service is of a summons, the plaintiff therein also shall cause the agent to be served therewith in a manner provided by ORCP 7. [Amended by 1961 c.268 §7; 1975 c.478 §7; 1979 c.284 §138; 1989 c.333 §6]

345.070 Registered agent identification credential; use. The employing school shall issue an identification credential to each agent registered under ORS 345.010 to 345.470 in the form and size prescribed by the superintendent. Each agent shall carry the credential at all times while engaged as an agent of the school. [Amended by 1961 c.268 §8; 1975 c.478 §8; 1989 c.333 §7]

345.080 License fees; disposition of fees. (1) Before issuing any licenses under ORS 345.010 to 345.470, the Superintendent of Public Instruction shall collect the following nonrefundable, annual license fees:

In-State Schools Tuition Income Range	Fee
\$ 0 - 15,000	\$300
15,000 - 50,000	400
50,000 - 125,000	500
125,000 - 250,000	700

250,000 - 500,000	900
500,000 - 750,000	1,100
750,000 - 1,000,000	1,300
Over 1,000,000	1,500

Out-of-State Schools Tuition Income Range	Fee
\$ 0 - 50,000	\$900
50,000 - 250,000	1,100
250,000 - 500,000	1,300
500,000 - 750,000	1,500
750,000 - 1,000,000	1,700
Over 1,000,000	1,900

(2) All fees so collected shall be paid to the credit of the Department of Education. Such moneys are continuously appropriated to the department and shall be used for the administration of the licensing program under ORS 345.010 to 345.470. [Amended by 1955 c.527 §2; 1961 c.268 §9; 1975 c.478 §9; 1989 c.333 §8; 1993 c.45 §263; 1993 c.413 §5]

345.090 [Amended by 1961 c.268 §10; repealed by 1975 c.478 §29]

345.100 [Amended by 1961 c.268 §11; 1975 c.478 §10; repealed by 1989 c.333 §25]

345.110 Tuition Protection Fund; payments by schools; effect of failure to pay; claims. (1) The Tuition Protection Fund is established separate and distinct from the General Fund. Interest earned by the account shall be credited to the account. Proceeds of the fund are continuously appropriated to protect students when a private vocational school ceases to provide educational services and for administrative expenses incurred under subsection (5) of this section.

(2) The Superintendent of Public Instruction shall maintain and administer the fund, and the State Board of Education shall adopt by rule procedures governing the administration and maintenance of the fund, including requirements relating to contributions to and claims against the fund.

(3) Each private vocational school shall pay to the Tuition Protection Fund an initial capitalization deposit in amounts and within time limits established by rule of the board. Thereafter, each school shall make installment payments based on a matrix adopted by rule of the board. In establishing the amount and frequency of payments, the board may consider the enrollment and financial condition of each school and such other factors as the board considers appropriate. The superintendent may deny, suspend or revoke the license of a school which fails to make payments or fails to conform to other requirements of this section or rules adopted by the board under this section.

(4) The superintendent shall deposit moneys received under this section with the State Treasurer in the Tuition Protection Fund.

(5) The superintendent may disburse moneys from the fund by checks or orders drawn upon the State Treasurer in conformance with rules of the board and only for tuition protection purposes, including the superintendent's costs in administering and maintaining the fund. [Amended by 1975 c.478 §11; 1981 c.897 §49; 1989 c.333 §9; 1991 c.534 §4; 1993 c.45 §264]

345.113 Contract for student loan generally not negotiable. (1) In any contract for the provision of instruction or training or other services by a vocational school on credit entered into between a vocational school and a student, or between a lending institution which regularly loans money to students of a particular vocational school and a prospective student of that vocational school, such contract, note or any instrument or evidence of indebtedness of the student shall have printed on the face thereof the words "Student Loan." Such contract, note, instrument or evidence of indebtedness with the words "Student Loan" printed thereon shall not be a negotiable instrument within the meaning of ORS chapter 73. However, this section shall have no force or effect on the negotiability of any contract, promissory note, instrument or other evidence of indebtedness owned or guaranteed or insured by any state or federal governmental agency even though the contract, note, instrument or other evidence of indebtedness contains the wording required by this subsection.

(2) Notwithstanding the absence of such notice on a contract, note, instrument or evidence of indebtedness arising out of a contract for the provision of training or instruction or other services by a vocational school, an assignee of the rights of the vocational school or lending institution as described in subsection (1) of this section is subject to all claims and defenses of the student against the vocational school or lending institution arising out of the contract for provision of vocational instruction or training or other services. Any agreement to the contrary shall be of no force or effect in limiting the rights of a student under this section. The assignee's liability under this section shall not exceed the amount owing to the assignee at the time the claim or defense is asserted against the assignee. The restrictions imposed by this subsection shall not apply with respect to any promissory note, contract, instrument or other evidence of indebtedness owned or guaranteed or insured by any state or federal governmental agency even though said note, contract, in-

strument or other evidence of indebtedness shall contain the words required by subsection (1) of this section.

(3) An assignee of a student loan who in good faith enforces a security interest in property held by the student shall not be liable to such student for punitive damages in an action for wrongful repossession. The fact that a vocational school misrepresented the nature of the training or instruction or other services shall not, of itself, make an assignee's repossession wrongful. [1975 c.478 §28]

345.115 Refund schedule as part of enrollment agreement; limit on advance deposit; when default occurs; tuition refunds. (1) The enrollment agreement entered into between a person and a vocational school for the purpose of obtaining instruction or training shall contain a schedule for the refund of tuition, deposits and fees when the person does not complete the course or program of instruction or training which was the subject of the contract. No action or suit may be brought by a vocational school or its assigns if the enrollment agreement does not contain this refund schedule. This provision shall not limit the vocational school's right to defend any action or suit brought by any person on a contract which does not contain such a schedule.

(2) The refund schedule required by subsection (1) of this section shall be established by the superintendent in consultation with the advisory committee appointed under ORS 345.330. In establishing the refund schedule, the superintendent shall consider:

(a) The reasonable, obligated and fixed costs of the vocational school, including but not limited to rent, personnel and nonreturnable supplies.

(b) The method of instruction.

(c) The reasonable value of services performed prior to cancellation of the course or program.

(3) The superintendent may establish varying refund schedules when the difference in services performed necessitates separate schedules.

(4) Nothing in this section is intended to prevent a vocational school from requiring an advance deposit of tuition on behalf of the person intending to enroll in a course or program offered by or through the vocational school. However, the advance deposit shall be limited to 20 percent of the total tuition and fees, excluding federal and state financial aid, unless the board determines by rule that larger advance deposits are appropriate.

(5) A school shall be considered in default of the enrollment agreement when a course or program is discontinued or can-

celed or the school closes prior to completion of contracted services. When a school is in default, student tuition may be refunded on a pro rata basis if the superintendent determines that the school has made provision for students enrolled at the time of default to complete a comparable program at another institution at no additional tuition cost to the student beyond the original contract with the defaulting school. If the school does not make such provision, a total refund of all tuition and fees shall be made to the students. [1965 c.409 §2; 1967 c.67 §16; 1975 c.478 §12; 1989 c.333 §10; 1993 c.742 §78]

345.117 Address of state department as part of agreement. Any enrollment agreement used within this state as a contract for instruction between a vocational school and a student shall have printed or stamped upon it: "Any inquiry a student may have regarding this contract may be made in writing to the school (name and address), or to the Superintendent of Public Instruction, Department of Education, (current address), Salem, Oregon (current zip code)." [1975 c.478 §22; 1989 c.333 §11]

345.120 Investigations; probation; suspension or revocation of licenses. (1) On the written complaint of any person, the Superintendent of Public Instruction shall, and on the superintendent's own motion may, investigate the actions of any vocational school or agent, or any person who assumes to act in either capacity within this state.

(2) As a result of the investigation, and in addition to any penalty that may be imposed under ORS 345.992, the superintendent may place a licensee on probation or may suspend or revoke any license issued under ORS 345.010 to 345.470 when the licensee has:

(a) Obtained a license by misrepresentation.

(b) Violated ORS 345.010 to 345.470 or any applicable rule.

(c) Ceased to engage in the business authorized by the license.

(d) Willfully used or employed any method, act or practice declared unlawful by ORS 646.608.

(3) When notice of suspension or revocation is issued, the licensee shall be notified and, upon request, shall be granted a contested case hearing under ORS 183.310 (2).

(4) A licensee placed on probation must be formally notified by the superintendent that it has deficiencies that must be corrected within a time specified in the notice.

(5) A licensee whose license is suspended is prohibited from advertising, recruiting or enrolling students but may remain in opera-

tion to complete training of students enrolled on the effective date of the suspension.

(6) A licensee whose license has been revoked is not authorized to continue in operation on and after the effective date of the revocation. [Amended by 1965 c.409 §3; 1975 c.478 §13; 1989 c.333 §12; 1993 c.45 §265]

345.130 [Repealed by 1975 c.478 §29]

345.140 [Repealed by 1975 c.478 §29]

345.150 [Amended by 1971 c.734 §39; repealed by 1975 c.478 §29]

345.160 [Repealed by 1975 c.478 §29]

345.170 [Repealed by 1975 c.478 §29]

345.180 [Repealed by 1975 c.478 §29]

345.190 [Repealed by 1975 c.478 §29 and by 1975 c.759 §17]

345.200 [Repealed by 1975 c.478 §29 and by 1975 c.759 §17]

345.210 Proof of license required in suit by vocational school, agent or employee: No vocational school or its agents or employees shall bring or maintain any suit or action in any court in or of this state for a cause of suit or action arising out of doing business as a vocational school in this state, without alleging and proving that it has complied with the applicable licensing provisions of ORS 345.010 to 345.470 and 345.992 to 345.997 at the time such cause of suit or action arose. [Amended by 1975 c.478 §14; 1989 c.333 §13]

345.220 [Amended by 1961 c.268 §12; 1965 c.529 §14; repealed by 1975 c.478 §29]

345.230 Jurisdiction of courts; remedies are additional. The remedies provided in ORS 345.010 to 345.470 and 345.992 to 345.997 are in addition to, and not exclusive of, any other remedies provided by law. [Amended by 1975 c.478 §15; 1975 c.759 §17a; 1991 c.67 §85]

345.240 Discrimination prohibited. (1) No vocational, professional or trade school licensed under ORS 345.010 to 345.470 shall refuse admission to or discriminate in admission against or discriminate in giving instruction to any person otherwise qualified.

(2) A certified copy of a finding by the Commissioner of the Bureau of Labor and Industries under ORS 659.060 that the school has violated subsection (1) of this section shall be adequate proof of the violation.

(3) As used in this section, "discriminate" has the meaning given "discrimination" in ORS 659.150. [Amended by 1957 c.724 §11; 1973 c.714 §4; 1989 c.333 §14; 1993 c.45 §266]

345.250 [Amended by 1957 c.724 §12; repealed by 1989 c.333 §26]

345.310 [1965 c.529 §2; repealed by 1975 c.478 §29]

(Standards)

345.320 Purpose. (1) The Legislative Assembly finds that vocational schools are ca-

pable of increasing the educational opportunities available in this state or to residents of this state and of making a contribution to the social and economic progress of the people of this state. Vocational schools offer different approaches to education than do public schools and are often able to provide vocational and placement assistance not otherwise available.

(2) It is the purpose of ORS 345.010 to 345.470 to provide for the protection, education and welfare of the citizens of this state, its vocational schools and its students, by establishing minimum standards concerning quality of education, ethical and business practices, health and safety and fiscal responsibility, and protecting against substandard, transient, unethical, deceptive or fraudulent practices. [1965 c.529 §3; 1975 c.478 §2; 1993 c.45 §267]

345.325 Minimum standards required; content. The State Board of Education shall adopt by rule minimum standards for the licensing of vocational schools under ORS 345.010 to 345.470 that are reasonably calculated to assure that:

(1) The quality and content of each course or program of instruction can achieve its stated objective;

(2) The facilities, instructional equipment and materials are sufficient to enable students to achieve the program goals and are adequate for the purposes of the program;

(3) The directors, administrators and instructors are properly qualified;

(4) Prior to an applicant signing an enrollment agreement, the school provides the applicant with a catalog or brochure that includes an accurate description of the program for which the applicant is enrolling, total costs of tuition and fees and other information specified by rule;

(5) Upon satisfactory completion of instruction and training, the student is given appropriate educational credentials;

(6) Adequate records and standard transcripts are maintained;

(7) The vocational school is maintained and operated in compliance with all applicable ordinances and laws;

(8) The vocational school is financially sound and capable of fulfilling its commitments to students;

(9) Neither the vocational school nor its agents engage in advertising, sales, collection, credit or other practices of any type which are unlawful under ORS 646.608;

(10) The directors, administrators, supervisors and instructors of the school are of good reputation and character, except that a

school shall not be placed on probation or a license shall not be denied, suspended or revoked because a faculty member has been convicted of a crime except as authorized under ORS 670.280;

(11) Any student housing owned, maintained or approved by the vocational school is appropriate, safe and adequate;

(12) The school has a written placement assistance plan; and

(13) A license application from a new school or an application for approval of a new program from an existing school shall include labor market information that identifies the need for the new school or program. [1975 c.478 §21; 1979 c.744 §17; 1989 c.333 §15; 1993 c.45 §268]

345.330 Advisory committee; function.

(1) The Superintendent of Public Instruction shall appoint a representative advisory committee consisting of 11 members who shall serve for terms of three years ending June 30. Of the membership of the committee:

(a) Seven members shall be persons affiliated with vocational schools as owners, directors, administrators, instructors or representatives, but not more than one member shall represent an out-of-state vocational school.

(b) Four members shall be persons who are not eligible under paragraph (a) of this subsection. At least one of these members shall have graduated from a private vocational school.

(2) The advisory committee appointed under subsection (1) of this section shall:

(a) Make recommendations to the superintendent and State Board of Education concerning the need for vocational and technical instructional and training facilities, the types of instruction and training needed and by whom these can best be provided.

(b) Recommend standards for vocational schools as provided in ORS 345.325 which are consistent with the purposes of such schools.

(c) Investigate and present findings to the board on the administration and operation of laws relating to vocational schools. However, the investigations and findings of the advisory committee do not affect the authority of the superintendent to issue, deny, suspend or revoke the license of any vocational school.

(d) Consult with the superintendent in determining the refund schedule under ORS 345.115.

(e) Make recommendations to the superintendent concerning rule development for ORS 345.010 to 345.470 and 345.992 to 345.997.

(3) Members of the advisory committee are entitled to compensation and expenses as provided in ORS 292.495 from funds appropriated to the Department of Education for purposes of administering ORS 345.010 to 345.470. [1965 c.529 §4; 1967 c.67 §17; 1975 c.478 §16; 1989 c.333 §16; 1993 c.45 §269]

345.340 Recommended minimum standards. Consistent with the requirements of ORS 345.325, the advisory committee shall recommend to the board minimum standards for the operation of vocational schools. In making its recommendations, the committee shall consider changes in technological, economic and social conditions which affect employment needs, opportunities and skills. [1965 c.529 §5; 1975 c.478 §18]

345.350 [1965 c.529 §86, 10; repealed by 1975 c.478 §29]

345.360 [1965 c.529 §7; repealed by 1975 c.478 §29]

345.370 [1965 c.529 §8; 1975 c.478 §19; repealed by 1989 c.333 §26]

345.380 [1965 c.529 §11; repealed by 1975 c.478 §29]

(Hair Design, Facial Technology and Nail Technology Schools)

345.400 Regulation of schools teaching hair design, facial technology or nail technology; rules. In addition to the other requirements of ORS 345.010 to 345.470, the rules adopted by the State Board of Education to regulate schools teaching hair design, facial technology or nail technology:

(1) Shall be set out separately from other rules adopted by the board.

(2) May include rules the board considers necessary to protect the economic or physical health and safety of the public and of the students attending the school including compliance with ORS 345.110.

(3) Shall include rules that set standards for teachers teaching in schools licensed to teach hair design, facial technology or nail technology pursuant to this chapter.

(4) Shall require the schools to teach, and require for graduation from the school, courses that meet the following minimum standards:

(a)(A) A minimum hourly training requirement for:

(i) Hair design, 1,800 hours;

(ii) Facial technology, 350 hours; and

(iii) Nail technology, 350 hours; and

(B) A student is only required to complete successfully one time the requirements common to two or more licensing classifications. The maximum number of hours of training time may be reduced by not to exceed 100 hours when a second licensing classification is being earned. The maximum number of hours of training time may be re-

duced by not to exceed an additional 100 hours, when a third classification is being earned; or

(b) A student competency-based training requirement for hair design, facial technology or nail technology, if the school has developed written requirements for graduation that are approved by the Superintendent of Public Instruction. [1977 c.886 §29; 1987 c.31 §14; 1989 c.333 §17; 1991 c.67 §86; 1993 c.45 §270; 1993 c.267 §20]

345.410 [1977 c.886 §30; 1987 c.31 §15; repealed by 1989 c.333 §26]

345.420 [1977 c.886 §31; 1983 c.151 §23; 1989 c.333 §18; 1993 c.45 §271; repealed by 1993 c.742 §77]

345.430 Determination of equivalent requirements for out-of-state applicant. At the request of the State Board of Barbers and Hairdressers, the superintendent shall determine whether a person from out-of-state seeking a certificate in hair design, facial technology or nail technology meets the equivalent requirements for testing of the State Board of Barbers and Hairdressers. [1977 c.886 §33; 1987 c.31 §16; 1989 c.333 §19; 1993 c.267 §21]

345.440 Safety and sanitation inspections by Health Division. Safety and sanitation inspections performed in schools licensed under ORS 345.010 to 345.470 to teach barbering or hair design, facial technology or nail technology shall be conducted by the Health Division of the Department of Human Resources. [1977 c.886 §34; 1987 c.31 §17; 1987 c.414 §150; 1993 c.45 §272; 1993 c.267 §22]

345.450 Annual inspection fee; transfer. (1) In addition to the fees required by ORS 345.080, before issuing any license under ORS 345.010 to 345.470 to a school teaching barbering or hair design, facial technology or nail technology, and annually thereafter, the Department of Education shall collect a nonrefundable annual inspection fee of \$100.

(2) The inspection fee collected under subsection (1) of this section shall be transferred to the Health Division of the Department of Human Resources for inspections performed under ORS 345.440. [1977 c.886, §35; 1987 c.31 §18; 1987 c.414 §151; 1989 c.333 §20; 1993 c.45 §273; 1993 c.267 §23]

345.460 Regulation of barber school; fee for renewal of teacher license. (1) Notwithstanding any other provision of ORS 345.010 to 345.470 and 690.005 to 690.235, any school licensed to teach barbering in this state and regulated under ORS 345.470, may continue, at the election of the school, to operate under ORS 345.470. If a school is subject to ORS 345.470, the State Board of Education, by rule, shall regulate all aspects of the operation of the school including, but not limited to, the course of study, admission

requirements, teacher requirements and qualifications, teacher licensing and license renewal, requisites for graduation, work station requirements, curriculum and all other requirements for the school.

(2) If a school is regulated under ORS 345.470, it is subject to regulation under ORS 345.030 (1), (4), (5), (6) and (7), 345.110, 345.115, 345.117, 345.120, 345.325 (10), 345.990 (1) and 345.992 to 345.997, but is not subject to ORS 690.005 to 690.235.

(3) No school shall be regulated under ORS 345.470 unless the school is currently so regulated. Any school electing to operate under ORS 345.470 may elect to withdraw from the provisions of ORS 345.470 and become regulated as otherwise provided by ORS 345.010 to 345.470.

(4) Any license to teach barbering issued by the Board of Barber Examiners before July 27, 1977, shall remain valid and may be renewed for an annual fee established by rule of the board. [Formerly 690.275; 1989 c.333 §21; 1989 c.491 §52a; 1993 c.45 §274]

345.470 Barber school license renewal requirements; fee. No barber school licensed to teach barbering shall have its license renewed by the Superintendent of Public Instruction unless the school:

(1) Requires, as a prerequisite to admission, graduation from the eighth grade of a grammar school, or its equivalent as determined by an examination conducted by the superintendent, and a certificate from a physician that the applicant for admission is free from communicable disease. The school shall furnish proof of a student's compliance with the educational requirement of this subsection not later than the 61st day after the day the student is admitted to the school.

(2) Requires as a prerequisite to graduation a course of instruction of not less than 1,350 hours in courses specified in subsection (3) of this section, to be completed within 12 consecutive months, of not more than 48 hours in any one working week.

(3) Offers a course of study that includes theory and practical application of fundamental skills and elementary sciences related to barbering, including barbering hygiene, bacteriology and histology of the hair, skin, muscles and nerves of the scalp, face and neck; elementary chemistry relating to sterilization, antiseptics and sanitation; common diseases of the hair, scalp, glands, face and neck; haircutting, shaving, shampooing, and the application of hair tonics, dressings and rinses; massaging of the scalp, face and neck, and facial and scalp treatments with creams, lotions, oils and other cosmetic preparations either by hand or mechanical appliances, but such appliances shall not be

galvanic or faradic; demonstration of coloring, bleaching, tinting and waving of the hair; salesmanship, shop management and the use of implements; the history of barbering and the ethics, laws and rules governing the practice of barbering.

(4) Files with the superintendent on forms furnished by the superintendent the names and addresses of the owner of the school; the name and address of each teacher, with the subjects taught by each and proof that each is a licensed barber teacher; and the hours for lectures and instruction in theory and in practical application.

(5) Is located and arranged to be entirely apart from any living quarters, barber shop or other place of business.

(6) Does not display or sell merchandise except merchandise related to barbering.

(7) Has at least one work station available eight hours a day for each student attending class and no fewer than 20 work stations complete with adequate facilities for individualized training. A work station shall contain a barber chair, a dustproof cabinet and a basin with hot and cold running water for every three barber chairs.

(8) Furnishes to each enrolling student a financial schedule showing the total cost of tuition and all charges involved in the course of study, including all tools, books and equipment necessary for graduation.

(9) Is operated by a licensed barber teacher who has demonstrated, to the satisfaction of the superintendent, qualifications to educate and instruct students in all subjects necessary to qualify them as competent barbers.

(10) Employs one full-time licensed barber teacher for each 15 students, or fraction thereof. However, a school must employ at least two full-time licensed barber teachers. As used in this subsection, "students" means the average number of students in daily attendance at the barber school during the preceding calendar quarter. The size of the teaching staff shall be modified, if necessary, at the beginning of each calendar quarter.

(11) Complies with the requirements of ORS 345.110.

(12) Keeps a daily record of the attendance of each student and the number of hours of instruction given by the school in required subjects. The school shall establish a grading system and administer examinations.

(13) Files with the superintendent a monthly record of student class attendance and subjects taught. This record shall be certified by the owner or manager of the

school and shall include a list of all students, the number of days and hours each student attended class, each student's total cumulative number of hours and the theoretical subjects taught by the school during the reporting period.

(14) Employs a head instructor who was actively engaged in barber teaching at a licensed barber school in this state during the three years immediately preceding the day the application for the license was filed.

(15) Pays the annual license fee established by rule of the State Board of Education. [Formerly 690.087; 1989 c.333 §22; 1993 c.45 §275]

PRIVATE ELEMENTARY AND SECONDARY SCHOOLS

(Definitions)

345.505 Definitions for ORS 345.505 to 345.575. As used in ORS 345.505 to 345.575 unless the context requires otherwise:

(1) "Educational services" means instructional programs but does not include programs limited solely to dancing, drama, music, religious or athletic instruction.

(2) "Private school" means a private elementary or secondary school operated by a person or by a private agency except as provided in ORS 339.030 (3), offering education in prekindergarten, kindergarten, or grades 1 through 12 or any part thereof. [1975 c.557 §1; 1979 c.271 §1; 1985 c.579 §4; 1989 c.619 §5; 1991 c.67 §87; 1993 c.45 §276]

(Registration)

345.515 Registration with department. A school may be registered as a private school with the Department of Education in the manner provided in ORS 345.505 to 345.575. [1975 c.557 §2; 1993 c.45 §277]

345.525 Application for registration; qualifications. (1) The owner or operator of a private school, or the superintendent or principal thereof, may apply to the Department of Education for registration of the school by submitting an application therefor on a form provided by the department.

(2) In order to become registered, the applicant must demonstrate to the satisfaction of the department that:

(a) The teachers in the applicant schools are possessed of those qualifications necessary to establish the applicant's fitness as a teacher, but such qualifications shall not include the requirement that teachers be licensed.

(b) The applicant and the school employees are qualified by education and experience to provide instruction at the grade level or in the program to which they are assigned.

(c) The facility at which the school is located and the operation thereof are adequate to protect the health and safety of the children enrolled therein, including but not limited to, fire protection and sanitation.

(d) The curriculum in prekindergarten, kindergarten and grades 1 through 12 shall be such that it will consider the goals of modern education and the requirements of a sound, comprehensive curriculum with particular emphasis on establishment of the highest practical standards, and in secondary schools establishment of academic standards necessary for students to qualify to attend community colleges and institutions of higher education both within and without the State of Oregon. Courses shall be taught for a period of time equivalent to that required for children attending public schools. [1975 c.557 §3; 1979 c.271 §2; 1993 c.45 §278]

345.535 Criteria for registration. (1) In adopting criteria for the registration of private schools, the State Board of Education shall take into consideration the unique qualities of private education while seeking to further the educational opportunities of students enrolled in such schools.

(2) After consultation with the advisory committee appointed under ORS 345.575, the State Board of Education shall establish by rule minimum criteria for the registration of private schools.

(3) In establishing standards, the State Board of Education shall comply with the rules of the State Fire Marshal and the Health Division relating to fire protection, health and sanitation. [1975 c.557 §4; 1989 c.491 §53]

345.545 Evaluation and registration; expiration; renewal; lapse; notice on refusal to register school. (1) Upon receipt of an application for registration, the Department of Education shall evaluate the private school and shall register the school if it finds that the school is in compliance with the requirements of ORS 345.525 and 345.535 and the rules adopted pursuant thereto. The registration expires October 14 next following its issuance. If the department refuses to register the school, it shall notify the applicant and give its reasons for the refusal.

(2) Registration under ORS 345.505 to 345.575 is renewable annually on or before October 15. Registration not renewed before October 15 shall be considered lapsed and may only be renewed in the manner required for initial registration. [1975 c.557 §5; 1979 c.387 §3]

345.555 Grounds for suspension, revocation or denial of renewal; procedure. (1) A registration issued under ORS 345.545 may

be suspended or revoked or renewal thereof denied if the Department of Education finds:

(a) The private school fails to comply with the requirements of ORS 345.525 and 345.535 and the rules adopted pursuant thereto.

(b) A false statement is made in the application for the registration or any information or report required under ORS 345.505 to 345.575 or such information or report is not furnished when required.

(2) The procedures for suspension or revocation or for refusal to issue or renew a registration under ORS 345.505 to 345.575 shall be considered a contested case within the meaning of ORS 183.310 to 183.550 and the procedures applicable thereto shall apply to registrations under ORS 345.505 to 345.575. [1975 c.557 §6]

345.565 Reports to department. Every registrant shall furnish promptly such reports and information as the State Board of Education by rule requires. [1975 c.557 §7]

(Advisory Committee)

345.575 Advisory committee; members; duties. (1) An advisory committee of seven members is established, to be appointed by the State Board of Education, on recommendation of the Superintendent of Public Instruction. Six members shall be selected from nominees of organizations of private schools and other segments of private education. One additional member shall be a lay person who is not associated with a private school. Members shall serve for a term of four years. No member is eligible to serve more than two terms consecutively.

(2) Members of the advisory committee shall receive no compensation for their service.

(3) The advisory committee shall advise the board on minimum criteria for private schools and on matters pertaining to the administration of ORS 345.505 to 345.575. [1975 c.557 §8]

(Miscellaneous)

345.585 Effect of teaching experience in private school. Teaching experience in a registered private school, as defined in ORS 345.505, or licensed private vocational school, as defined in ORS 345.010, shall apply to meeting the requirements of ORS 342.135 (3)(a). [1975 c.557 §12; 1989 c.333 §23; 1993 c.45 §279]

PENALTIES

345.990 Criminal penalties. (1) Violation of any provision of ORS 345.020, 345.030, 345.070, 345.115 or 345.325 is a Class B misdemeanor.

(2) Representation by a private school, as defined in ORS 345.505, that it is registered pursuant to ORS 345.505 to 345.575 when it is not registered is a Class C misdemeanor. [Amended by 1975 c.478 §26; subsection (2) enacted as 1975 c.557 §9; 1993 c.45 §280]

345.992 Civil penalties. (1) In addition to any other penalty provided by law, any person who violates any provision of ORS 345.020, 345.030, 345.070, 345.115 or 345.117, or who engages in an unlawful trade practice as defined by ORS 646.608 shall incur a civil penalty for each violation in the amount prescribed by the schedule adopted under ORS 345.995.

(2) Civil penalties under this section shall be imposed as provided in ORS 183.090. [1975 c.478 §23; 1991 c.734 §17]

345.995 Establishment of schedule of civil penalties; imposition of such penalties. (1) After consultation with the advisory committee established under ORS 345.330, the State Board of Education shall adopt by rule a schedule or schedules establishing the amount of civil penalty that may be imposed for a particular violation of ORS 345.010 to 345.470. No civil penalty shall exceed \$500 per violation. The board shall consult with the Attorney General before adopting the schedule of penalties for violations of ORS 345.120 (2)(d).

(2) In imposing a penalty for violation of ORS 345.010 to 345.470 pursuant to the schedule or schedules authorized by this section, the Superintendent of Public Instruction shall consider the following factors:

(a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.

(b) Any prior violations of ORS 345.010 to 345.470 or rules adopted pursuant thereto.

(c) The economic and financial conditions of the person incurring a penalty.

(3) The penalty imposed under this section may be remitted or mitigated upon such terms and conditions as the superintendent considers proper and consistent with the public welfare.

(4) The superintendent may impose penalties which may be remitted or mitigated on condition that a particular violation not continue or occur after a certain period not to exceed 15 days. [1975 c.478 §24; 1991 c.67 §88; 1993 c.45 §281]

345.997 Civil penalty credited to General Fund. All penalties recovered under ORS 345.992 shall be paid into the State Treasury and credited to the General Fund. [1975 c.478 §25; 1989 c.706 §11; 1991 c.734 §18]