

# TITLE 30

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### Chapter 326

2003 EDITION

#### State Administration of Education

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**326.005** [1961 c.624 §1; repealed by 1965 c.100 §456]

**326.010** [Repealed by 1961 c.624 §8 and 1965 c.519 §15]

### STATE BOARD OF EDUCATION

**326.011 Policy.** In establishing policy for the administration and operation of the public elementary and secondary schools and public community colleges in the State of Oregon and in carrying out its duties as prescribed by law, the State Board of Education shall consider the goals of modern education, the requirements of a sound, comprehensive curriculum best suited to the needs of the students and the public and any other factors consistent with the maintenance of a modern and efficient elementary and secondary school system and community college program. [1965 c.100 §1; 1971 c.513 §8]

**326.020** [Amended by 1961 c.624 §2; 1963 c.544 §15; repealed by 1965 c.100 §456]

**326.021 State Board of Education; confirmation; term; reappointment; qualifications; removal.** (1) The State Board of Education shall consist of seven members, appointed by the Governor for a term of four years beginning July 1 of the year of appointment, subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. No person may be appointed to serve consecutively more than two full terms as a board member.

(2) In making appointments under subsection (1) of this section, the Governor shall select from residents of Oregon one member from each congressional district and the remainder from the state at large. No member shall be engaged in teaching or participate in the administration or operation of any school.

(3) The Governor may remove members of the State Board of Education for cause at any time after notice and public hearing. [1965 c.100 §3 (enacted in lieu of 326.060); 1969 c.695 §4; 1971 c.485 §1; 1985 c.565 §56; 1993 c.45 §2]

**326.030** [Amended by 1961 c.624 §3; renumbered 326.095]

**326.031 Vacancies.** Appointments made to fill vacancies occurring prior to expiration of a term shall be for the remainder of the unexpired term. When a vacancy occurs in an appointment made from a congressional district, the successor shall be appointed from the congressional district for which the vacancy exists. [1965 c.100 §4; 1985 c.565 §57]

**326.040** [Amended by 1957 c.124 §1; repealed by 1965 c.100 §456]

**326.041 Meetings; election and term of chairperson; compensation and expenses.** (1) The State Board of Education shall meet at least six times each year on dates determined by the board, and at such other times

as may be designated by the chairperson agreeable to a majority of the board, or at the call of a majority of the board members.

(2) The board shall elect one of its members to serve as chairperson of the board for one year commencing July 1. In case the office of chairperson of the board is permanently vacated for any reason, the board may elect a new chairperson to serve until the June 30 next following.

(3) A member is entitled to compensation and expenses as provided in ORS 292.495. [1965 c.100 §5; 1967 c.507 §3; 1969 c.314 §21; 1971 c.656 §1; 1987 c.474 §1; 1993 c.15 §1; 1993 c.45 §3]

**326.050** [Repealed by 1957 c.124 §3]

**326.051 Board functions; rules.** Subject to ORS 417.300 and 417.305:

(1) In addition to such other duties as are prescribed by law and pursuant to the requirement of ORS chapter 183, the State Board of Education shall:

(a) Establish state standards for public kindergartens and public elementary and secondary schools consistent with the policies stated in ORS 326.011.

(b) Adopt rules for the general governance of public kindergartens and public elementary and secondary schools and public community colleges.

(c) Prescribe required or minimum courses of study.

(d) Adopt rules regarding school and interscholastic activities in accordance with standards established pursuant to paragraph (f) of this subsection.

(e) Adopt rules that provide that no public elementary or secondary school shall discriminate in determining participation in interscholastic activities. As used in this paragraph, "discrimination" has the meaning given that term in ORS 659.850.

(f) Adopt standards applicable to voluntary organizations that administer interscholastic activities as provided in ORS 339.430.

(g) Adopt rules that will eliminate the use and purchase of elemental mercury, mercury compounds and mercury-added instructional materials by public elementary and secondary schools.

(2) The State Board of Education may:

(a) Consistent with the laws of this state, accept money or property not otherwise provided for under paragraph (b) of this subsection, which is donated for the use or benefit of the public kindergartens and public elementary and secondary schools and public community colleges and use such money or property for the purpose for which it was donated. Until it is used, the board shall deposit any money received under this paragraph in a special fund with the State

Treasurer as provided in ORS 293.265 to 293.275.

(b) Apply for federal funds and accept and enter into any contracts or agreements in behalf of the state for the receipt of such funds from the federal government or its agencies for educational purposes, including but not limited to any funds available for the school lunch program, for career education purposes, for professional technical educational purposes, for adult education, for manpower programs and any grants available to the state or its political subdivisions for general federal aid for public kindergartens and public elementary and secondary schools and public community colleges and their auxiliary services, improvement of teacher preparation, teacher salaries, construction of school buildings, administration of the Department of Education and any other educational activities under the jurisdiction of the State Board of Education.

(c) Adopt rules to administer the United States Department of Agriculture's National School Lunch Program and School Breakfast Program for public and private prekindergarten through grade 12 schools and residential child care facilities.

(3) The State Board of Education shall provide a separate, identifiable place on its agenda six times a year for community college issues. The state board may also consider matters affecting community colleges at any regular or special meeting. [1965 c.100 §6; 1965 c.519 §14; 1967 c.67 §24; 1969 c.284 §1; 1971 c.513 §9; 1973 c.707 §1; 1975 c.459 §1; 1975 c.605 §17a; 1981 c.91 §1; 1987 c.404 §2; 1987 c.474 §2; 1989 c.834 §§12,13; 1993 c.45 §§5,6; 2001 c.530 §1; 2003 c.14 §146; 2003 c.151 §1]

**326.054** [1953 c.78 §1(1); repealed by 1965 c.100 §456]

**326.056** [1953 c.78 §1(2); repealed by 1965 c.100 §456]

**326.058** [1987 c.404 §1; 1993 c.45 §9; renumbered 339.430 in 1993]

**326.060** [Repealed by 1965 c.100 §2 (326.021 enacted in lieu of 326.060)]

**326.061** [1965 c.100 §8; repealed by 1993 c.45 §10]

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

**326.065** [Amended by 1961 c.167 §40; repealed by 1965 c.100 §456]

**326.070** [Amended by 1959 c.422 §1; repealed by 1965 c.100 §456]

**326.071** [Formerly 326.120; repealed by 1977 c.306 §1]

**326.075 Cooperation with Education and Workforce Policy Advisor; cooperation and compliance with Oregon Student Assistance Commission decisions.** (1) The State Board of Education shall cooperate with the Education and Workforce Policy Advisor in the development of a state comprehensive education plan including elementary, secondary and community college education and in review of the board's programs and budget. The board shall submit in timely fashion to the advisor such data as is

appropriate in a form prescribed by the advisor.

(2) The board shall cooperate with the mediation process administered by the Oregon Student Assistance Commission pursuant to ORS 348.603 and, if a negotiated resolution cannot be reached by mediation, comply with the decisions of the commission regarding proposed new post-secondary programs and proposed new post-secondary locations. [1975 c.553 §8; 1993 c.45 §11; 1997 c.652 §20]

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

**326.081** [1971 c.656 §2; repealed by 1985 c.388 §3]

**326.090** [Amended by 1959 c.422 §2; 1963 c.483 §8; repealed by 1965 c.100 §456]

**326.095** [Formerly 326.030; repealed by 1965 c.100 §456]

**326.100** [Repealed by 1961 c.624 §8 and 1965 c.519 §15]

**326.102** [1953 c.266 §1; renumbered 326.520]

**326.104** [1953 c.266 §2; renumbered 326.530]

**326.106** [1953 c.266 §3; renumbered 326.540]

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

## DEPARTMENT OF EDUCATION

**326.111 Department of Education; composition; functions.** (1) The Department of Education shall function under the direction and control of the State Board of Education with the Superintendent of Public Instruction serving as an administrative officer for public school matters.

(2) The Department of Education shall consist of:

(a) Agencies and officers that are added by law to the Department of Education; and

(b) The administrative organizations and staffs required for the performance of the department's functions.

(3) All administrative functions of the State Board of Education shall be exercised through the Department of Education, and the department shall exercise all administrative functions of the state relating to supervision, management and control of schools not conferred by law on some other agency. [1965 c.100 §10; 1967 c.552 §22; 1989 c.491 §2; 1991 c.757 §1; 1991 c.886 §2; 1993 c.45 §12; 1999 c.39 §3]

**Note:** Sections 1, 3 and 4, chapter 564, Oregon Laws 2003, provide:

**Sec. 1. Summer food service programs reimbursement.** (1) During the 2003-2005 biennium, the Department of Education may reimburse school districts and community groups that have summer food service programs that serve an attendance area for a school in which 85 percent or more of the students enrolled at the school are eligible for free and reduced price meals under the United States Department of Agriculture's current Income Eligibility Guidelines.

(2) The State Board of Education may adopt any rules necessary for the administration of this section. [2003 c.564 §1]

**Sec. 3. Advisory group on summer food service programs.** (1) During the 2003-2005 biennium, the De-

partment of Education shall convene an advisory group to study summer food service programs. The Superintendent of Public Instruction shall appoint the members of the advisory group.

(2) The advisory group shall make recommendations regarding:

(a) How to make summer food service programs more cost effective;

(b) Whether to expand the program described in section 1 of this 2003 Act and offer summer food service programs to students who attend schools in which 70 percent or more of the students enrolled at the school are eligible for free and reduced price meals under the United States Department of Agriculture's current Income Eligibility Guidelines; and

(c) Whether to increase the appropriation amount specified for the 2003-2005 biennium in section 5 of this 2003 Act for the 2005-2007 biennium and whether to ask the Seventy-third Legislative Assembly for that appropriation.

(3) The department shall submit a report on the study and recommendations of the advisory group to the interim committees on education, in the manner provided by ORS 192.245, no later than October 1, 2004. [2003 c.564 §3]

**Sec. 4.** Sections 1 to 3 of this 2003 Act are repealed on July 1, 2005. [2003 c.564 §4]

**326.115 Department of Education Account.** The Department of Education Account is established separate and distinct from the General Fund. All moneys received by the Department of Education, other than appropriations from the General Fund, shall be deposited into the account and are continuously appropriated to the department to carry out the duties, functions and powers of the department. [2001 c.716 §12]

**326.120** [Amended by 1965 c.100 §9; renumbered 326.071]

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

**326.140** [Amended by 1959 c.121 §1; 1961 c.624 §4; repealed by 1965 c.100 §456]

**326.150** [Repealed by 1961 c.624 §8 and 1965 c.519 §15]

## SUPERINTENDENT OF PUBLIC INSTRUCTION

**326.305 Term of Superintendent of Public Instruction.** The Superintendent of Public Instruction shall be elected for a term of four years. [1979 c.190 §397]

**326.310 Superintendent's educational duties.** Except as provided by ORS 326.041, 326.051, 326.375, 341.005, 341.015, 341.440, 341.455, 341.626, 341.655 and 341.933, the Superintendent of Public Instruction shall exercise, under the direction of the State Board of Education, a general superintendence of school officers and the public schools. In carrying out the duties of office, the Superintendent of Public Instruction shall:

(1) Act as administrative officer of the State Board of Education.

(2) Act as executive head of the Department of Education and direct and supervise all activities of the department.

(3) Assist all district school boards and education service district boards in answering questions concerning the proper administration of the school laws, the rules of the State Board of Education and the ministerial duties of school officers and teachers. The decision of the superintendent shall guide school officers and teachers in the performance of their duties relating to the matters decided. The superintendent may submit any question to the State Board of Education which shall then decide the question.

(4) Obtain and compile such statistical information relative to the condition and operation of the public schools as the superintendent or the state board may consider advisable for the advancement of education and for the information of the state board and the public.

(5) Appoint, subject to the State Personnel Relations Law and with the approval of the State Board of Education, such personnel as may be necessary for the performance of the duties of the office of the superintendent. The Superintendent of Public Instruction may designate one or more suitable persons to sign or countersign warrants, vouchers, certificates or other papers and documents requiring the signature of the superintendent.

(6) Administer and supervise adult education programs in the public elementary and secondary schools.

(7) Perform such other functions as may be necessary to the performance of the duties of the superintendent. [1965 c.100 §11; 1989 c.491 §3; 1993 c.45 §13; 1995 c.67 §37; 1999 c.938 §3; 2003 c.226 §2]

**326.320 Publications; fees; accounting.** The Superintendent of Public Instruction shall:

(1) Prepare and distribute to the various school officers materials necessary for the administration of the school laws and cause to be printed materials necessary for the information of school officers and teachers.

(2) Annotate and compile all school laws ordered published by the State Board of Education.

(3) Except as otherwise provided by law or by rules of the State Board of Education, establish and collect fees for supplies and publications compiled and furnished by the Department of Education and distributed or sold to other persons or groups. Such charges shall not exceed costs of production plus mailing and other distribution costs.

(4) Deposit all moneys received under subsection (3) of this section in the State Treasury. Such moneys shall be credited to the Education Cash Account of the Department of Education and are continuously ap-

propriated. The Department of Education shall keep a record of all moneys deposited in such account. The record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity against which each withdrawal is charged. [1965 c.100 §12; 1979 c.570 §1; 1993 c.45 §14]

**326.323 Superintendent's signature on public contracts.** The Superintendent of Public Instruction may use a facsimile signature on public contracts for personal services if the value of the contract is \$3,000 or less. [2001 c.37 §1]

**326.330 Deputy Superintendents of Public Instruction; appointment; powers.** (1) The Superintendent of Public Instruction may appoint Deputy Superintendents of Public Instruction, for whose acts the superintendent shall be responsible. A deputy may perform any act or duty of the office of Superintendent of Public Instruction designated by the superintendent.

(2) Notice of the appointment of a deputy and the duties designated for the deputy shall be filed with the Secretary of State. [1965 c.100 §13; 1991 c.887 §1]

**326.340 Disposition of conference fees by superintendent; disbursement of fees.** (1) When the Superintendent of Public Instruction has possession or control of conference fees that are made available for training programs sponsored in whole or in part by the Department of Education, the fees shall be deposited with the State Treasurer in the Education Training Revolving Account which is established and which shall be separate and distinct from the General Fund. Interest earned by the account shall be credited to the account.

(2) Disbursements from the account to persons lawfully entitled thereto may be made by the Superintendent of Public Instruction or designee, by checks or orders drawn upon the State Treasurer. [1989 c.966 §76]

**326.350 Authority for department staff to serve on education-related organizations; Educational Organizations Fund; disbursements.** (1) The Superintendent of Public Instruction may authorize staff members of the Department of Education to serve as executive directors of education-related organizations and in so doing manage the funds of those organizations.

(2) The Educational Organizations Fund is established. Moneys received under this section shall be deposited with the State Treasurer in the Educational Organizations Fund which shall be separate and distinct from the General Fund. Interest earned by the account shall be credited to the account.

(3) Disbursements from the account to persons lawfully entitled thereto may be made by the Superintendent of Public Instruction or designee, by checks or orders drawn upon the State Treasurer. [1989 c.966 §77; 2001 c.104 §107]

### SCHOOL CENSUS

**326.355 Determination of school census.** (1) The Superintendent of Public Instruction shall prorate the annual estimate of census as provided in ORS 327.410 and 327.420 in proportion as the resident average daily membership of each education service district bears to the total resident average daily membership of the state and certify such to the administrative officer of each education service district.

(2) Subject to guidelines approved by the Superintendent of Public Instruction, the administrative officer of each education service district shall apportion the census so certified to those common school districts reporting to the education service district. The estimated district census determined by this manner shall be deemed applicable to all statutory references to the term "census" or "school age child" in Oregon Revised Statutes. [Formerly 332.575; 2003 c.226 §3]

### DEPARTMENT OF COMMUNITY COLLEGES AND WORKFORCE DEVELOPMENT

**326.370 Department of Community Colleges and Workforce Development under State Board of Education; rules.** (1) The Department of Community Colleges and Workforce Development shall function under the direction and control of the State Board of Education with the Commissioner for Community College Services serving as an administrative officer for community college matters.

(2) The Department of Community Colleges and Workforce Development, in consultation with the Education and Workforce Policy Advisor and pursuant to ORS chapter 183, may adopt any rules necessary for the administration of laws related to the federal Workforce Investment Act that the department is charged with administering. [1999 c.39 §1; 2001 c.684 §1]

**326.373 Department of Community Colleges and Workforce Development Account.** (1) The Department of Community Colleges and Workforce Development Account is established separate and distinct from the General Fund. Except for moneys otherwise designated by statute, all fees, assessments and other moneys received by the Department of Community Colleges and Workforce Development shall be deposited into the State Treasury and credited to the

account. All moneys in the account are continuously appropriated to the department for purposes authorized by law.

(2) The department may accept gifts, grants and donations from any source to carry out the duties imposed upon the department. Moneys received under this subsection shall be paid into the account.

(3) The department shall keep a record of all moneys deposited into the account. The record shall indicate by separate cumulative subaccounts the sources from which the moneys are derived and the individual activity or program against which each withdrawal is charged.

(4) Disbursements from the account shall be made as directed by the department. [2001 c.716 §13]

**326.375 Commissioner for Community College Services; appointment; duties.** (1) The State Board of Education shall appoint a Commissioner for Community College Services who shall serve at the pleasure of the board.

(2) The commissioner shall be a person who by training and experience is well qualified to perform the duties of the office and to assist in carrying out the functions of the board under ORS 326.041, 326.051, 326.375, 341.005, 341.015, 341.440, 341.455, 341.626, 341.655 and 341.933.

(3) The commissioner shall:

(a) Be the executive head of the Department of Community Colleges and Workforce Development;

(b) Direct and supervise all activities of the Department of Community Colleges and Workforce Development;

(c) Hire staff, as authorized by the State Board of Education to assist in carrying out the duties of the commissioner. The staff shall be considered employees of the Department of Community Colleges and Workforce Development for purposes of ORS chapters 240 and 243; and

(d) Be responsible directly to the State Board of Education for those duties enumerated in ORS chapter 341.

(4) The commissioner, with approval of the State Board of Education, shall be responsible for the representation of community college interests to the Governor, the Legislative Assembly, state agencies and others. The commissioner, with the approval of the state board, shall be responsible for submitting community college budget requests and budget reports for the Department of Community Colleges and Workforce Development to the Legislative Assembly. The state board shall insure that the budget request for community colleges and for the

Department of Community Colleges and Workforce Development are separate and distinct from its other requests to the Legislative Assembly. [1987 c.474 §3; 1991 c.757 §2; 1995 c.67 §38; 1999 c.39 §4]

**326.380 Advanced Technology Education and Training Fund.** There is created within the State Treasury, separate and distinct from the General Fund, the Advanced Technology Education and Training Fund. Moneys in the fund are continuously appropriated to the Department of Community Colleges and Workforce Development for the purpose of making grants and loans for the provision of advanced technology education and training opportunities under ORS 326.382. [2003 c.798 §1]

**326.382 Advanced technology education and training grants and loans; rules.**

(1) The Department of Community Colleges and Workforce Development shall establish by rule a process for making grants or loans to public-private partnerships to provide advanced technology education and training opportunities. The purpose of the grants and loans is to support the development and implementation of public-private partnerships to provide advanced technology education and training opportunities in all business and industry sectors for individuals in communities throughout Oregon. The partnerships shall be between public and private entities and may include joint ventures among business and industry, school districts, education service districts, eligible post-secondary institutions as defined in ORS 348.180 and public bodies as defined in ORS 174.109.

(2) Public-private partnerships that receive a grant or loan under this section must provide advanced technology education and training opportunities that:

(a) Address current and future workforce development needs dictated by Oregon's rapidly changing economy;

(b) Facilitate sustainable and dynamic economic development in communities by creating flexible opportunities for workforce development;

(c) Establish results oriented, collaborative investments of public and private resources in communities throughout Oregon;

(d) Ensure that Oregon's capacity for economic growth and vitality is not limited by a lack of opportunities for workforce development; and

(e) Provide support to existing community efforts to establish innovative strategies for delivering advanced technology education and training.

(3) The process established by the department for making grants and loans shall ensure that:

(a) Local communities are informed about the availability of the grants and loans;

(b) Advanced technology education and training projects are geographically distributed throughout Oregon;

(c) There is equal opportunity for urban and rural access to quality education and training opportunities;

(d) Representatives of related, ongoing community efforts assist in the implementation of advanced technology education and training projects; and

(e) Procedures and timelines are designed to minimize barriers to receiving funds.

(4) When considering applications for grants and loans, the department shall give priority to advanced technology education and training projects that:

(a) Provide or increase access for individuals to advanced technology education and training through the efforts of local and regional career centers and partnerships and distance education technology available locally and regionally;

(b) In combination with other projects receiving funds, contribute to advanced technology education and training opportunities in every part of the state;

(c) Use federal funds;

(d) Have widespread community support as evidenced by a memorandum of agreement or similar documentation;

(e) Represent an effective sharing of resources through public-private partnerships among business and industry, school districts, education service districts, eligible post-secondary institutions as defined in ORS 348.180 and public bodies as defined in ORS 174.109;

(f) Have a long-term strategic plan and lack only the necessary financial resources;

(g) Provide state-of-the-art technology that meets current standards of business and industry and addresses local and regional economic development priorities;

(h) Help individuals connect education and training with career planning and job opportunities through local and regional career centers as implemented under the federal Workforce Investment Act;

(i) Provide articulated education programs that lead to a degree or an industry-specific skills certification; and

(j) Establish short-term training programs that meet the immediate needs of local employers in their communities.

(5)(a) Public-private partnerships awarded a grant or loan under this section shall use the grant or loan for:

(A) Infrastructure construction or reconstruction;

(B) Equipment or technology purchases;

(C) Curriculum development; and

(D) Expanding or revising a current project to increase the capacity of the project, alter the project plan, change the members of a partnership or address education or employment deficiencies in the community served by the public-private partnership.

(b) A grant or loan awarded under this section for the purpose described in paragraph (a)(D) of this subsection may not exceed \$25,000.

(6) The application for a grant or loan under this section shall include:

(a) The names of the members of the public-private partnership;

(b) A description of standards used to assess the performance of the project;

(c) An estimate of the number of individuals who will be served by the project;

(d) The name of the fiscal agent of the public-private partnership;

(e) A project plan covering at least the first two years after receipt of a grant or loan; and

(f) The name of the person who will be responsible for convening the public-private partnership on a regular basis.

(7) The department may accept contributions of funds and assistance from the United States Government or its agencies or from any other source, public or private, and agree to conditions placed on the funds not inconsistent with the purposes of this section.

(8) Any moneys received by the department through repayment of a loan awarded under this section, or received by the department under subsection (7) of this section, shall be deposited by the department in the Advanced Technology Education and Training Fund. [2003 c.798 §2]

**326.400** [1989 c.968 §1; repealed by 1993 c.45 §15 and 1993 c.156 §1]

**326.410** [1989 c.968 §2; repealed by 1993 c.45 §16 and 1993 c.156 §1]

**326.510** [Formerly 343.950; 1973 c.708 §1; renumbered 343.960]

## INTELLECTUAL PROPERTY

**326.520 Acquisition of intellectual property by board.** The State Board of Education may acquire intellectual property of any kind, whether patentable or copyrightable or not, including patents, copyrights, inventions, discoveries, processes and ideas. Such property may be acquired:

(1) By gift.

(2) By outright purchase with money in the Board of Education Invention Fund or otherwise made available for such purpose.

(3) By assignment pursuant to a contract whereby the board undertakes to aid in the development of the assigned property and to pay the assignor a share of any money received on account of its ownership or management thereof. [Formerly 326.102]

**326.530 Management, development and disposition of intellectual property.**

(1) The State Board of Education may manage, develop or dispose of property acquired under ORS 326.520 in any manner deemed by the board to be in the public interest. The board may contract with any person regarding such management, development or disposition.

(2) The board may determine the terms and conditions of any transaction authorized by ORS 326.520 to 326.540 and need not require competitive bids in connection therewith. No formal publicity or advertising is required regarding property for the development of which the board wishes to contract, but the board shall make reasonable efforts to disseminate pertinent information in appropriate research and industrial circles.

(3) If the board deems it inadvisable to proceed with the development or management of property acquired under ORS 326.520, it may reassign such property to the person from whom it was acquired upon being compensated for any expenditure made on account of such property. [Formerly 326.104]

**326.540 Revenue from intellectual property; Board of Education Invention Fund; purpose.**

(1) Money received by the State Board of Education as a result of ownership or management of property acquired under ORS 326.520 or of transactions regarding such property shall be deposited in the State Treasury and credited to a special fund separate and distinct from the General Fund and designated "Board of Education Invention Fund."

(2) The moneys in the Board of Education Invention Fund hereby are appropriated to the board for the following purposes:

(a) To pay the agreed share of an assignor of intellectual property.

(b) For the advancement of research in an institution under its control.

(c) For the acquisition, management or development of intellectual property. [Formerly 326.106]

**GENERAL EDUCATIONAL DEVELOPMENT (GED) CERTIFICATES**

**326.550 General Educational Development (GED) certificates; rules; how fee determined; accounting.**

(1) The Commissioner for Community College Services may issue General Educational Development (GED) certificates to persons who demonstrate satisfactory performance in tests prescribed under subsection (2) of this section or meet the requirements of any prescribed evaluative procedure.

(2) The State Board of Education by rule may prescribe tests and other appropriate evaluation procedures for the purposes of subsection (1) of this section and may establish age, residence and other relevant qualifications for applicants.

(3) The Department of Community Colleges and Workforce Development may utilize its personnel and facilities for the administration of this section, and the State Board of Education may establish by rule a nonrefundable application fee. The fee may be waived by the State Board of Education in case of hardship.

(4) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fee, the fee established under subsection (3) of this section shall not exceed the cost of administering the program, as authorized by the Legislative Assembly within the board's budget, as the budget may be modified by the Emergency Board.

(5) All moneys received under this section shall be deposited in the State Treasury to the credit of the Department of Community Colleges and Workforce Development and shall be used exclusively for administration of this section. The Department of Community Colleges and Workforce Development shall keep a record of all moneys deposited in such account. The record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity against which each withdrawal is charged.

(6) The Commissioner for Community College Services shall consult with the Superintendent of Public Instruction on all matters related to evaluation procedures used to measure equivalent achievement under this section. The superintendent is authorized to make independent recommendations on evaluation procedures to the State Board of Education in those cases where the superintendent's judgment differs from that of the commissioner. [Amended by 1967 c.571 §1; 1979 c.386 §1; 1979 c.570 §2; 1983 c.159 §1; 1989 c.491 §4; 1991 c.703 §5; 1993 c.45 §17; 1997 c.249 §94]

**326.560** [1985 c.464 §1; repealed by 1993 c.45 §18]

**STUDENT RECORDS**

**326.565 Standards for student records; rules.** The State Board of Education shall adopt by rule standards for the creation, use, custody and disclosure, including access, of student education records that are consistent with the requirements of applicable state and federal law. The state board shall distribute the rules that are adopted to all school districts. The school districts shall make those rules available to the public schools in the district and to the public. The state board may differentiate the standards applicable to persons 18 years of age or older or enrolled in post-secondary institutions. The standards shall include requirements under which public and private schools and education service districts transfer student education records pursuant to ORS 326.575. [1993 c.806 §3 (326.565, 326.575 and 336.187 enacted in lieu of 336.185, 336.195 and 336.215); 1995 c.15 §1]

**326.575 Records when student transfers or is placed elsewhere; notice to parents; amendments to records; rules.** (1) Within 10 days of a student's seeking initial enrollment in a public or private school or when a student is placed in a state institution, other than an institution of post-secondary education, or a private agency, detention facility or youth care center, the school, institution, agency, facility or center shall notify the public or private school or the institution, agency, facility or center in which the student was formerly enrolled and shall request the student's education records.

(2) Subject to ORS 339.260, any public or private school, state institution, private agency, detention facility or youth care center receiving the request described in subsection (1) of this section shall transfer all student education records relating to the particular student to the requesting school, institution, agency, facility or center no later than 10 days after the receipt of the request. The education records shall include any education records relating to the particular student retained by an education service district.

(3) Each educational institution that has custody of the student's education records shall annually notify parents and eligible students of their right to review and propose amendments to the records. The State Board of Education shall specify by rule the procedure for reviewing and proposing amendments to a student's education records. If a parent's or eligible student's proposed amendments to a student's education records are rejected by the educational institution, the parent or eligible student shall receive a hearing on the matter. The State Board of Education shall specify by rule the procedure for the hearing.

(4) As used in this section:

(a) "Detention facility" has the meaning given that term in ORS 419A.004.

(b) "Educational institution" means a public or private school, education service district, state institution, private agency or youth care center.

(c) "Private agency" means an agency with which the Department of Education contracts under ORS 343.961.

(d) "Youth care center" means a center as defined in ORS 420.855. [1993 c.806 §4 (326.565, 326.575 and 336.187 enacted in lieu of 336.185, 336.195 and 336.215); 1995 c.15 §2; 2001 c.681 §1]

**326.580 Electronic student records; rules; standards; participation by educational institutions.** (1) As used in this section, "educational institution" means:

(a) An "educational institution" as defined in ORS 326.575.

(b) A state agency.

(c) A local correctional facility.

(2) The State Board of Education may adopt by rule standards for the content and format of an Oregon electronic student record. An Oregon electronic student record may be used to transfer student record information from one educational institution to another.

(3) The board may define the Oregon electronic student record to constitute a full and complete copy of the official student permanent record, student education record and certificate of immunization status that are required by state and federal law.

(4) The standards established by the board shall include procedures and criteria for participation in the Oregon electronic student record program by educational institutions. An educational institution may apply to the Department of Education for a certificate of participation in the Oregon electronic student record program.

(5) An educational institution that is approved for participation in the Oregon electronic student record program by the Department of Education:

(a) Shall not be required to forward by mail or other means physical items such as original documents or photocopies to a receiving educational institution that also is approved for participation in the program. This paragraph does not apply to special education records that are specifically required by federal law to be physically transferred.

(b) May elect to designate the Oregon electronic student record as the official student record.

(c) Shall retain the official student record in compliance with state and federal law. [2001 c.450 §1]

**326.585 Definitions for ORS 326.587 and 326.589.** As used in ORS 326.587 and 326.589:

(1) “Disclose” means to make available for review by another person.

(2) “Law enforcement agency” has the meaning given that term in ORS 181.010.

(3) “Wages” has the meaning given that term in ORS 652.210. [2003 c.776 §1]

**Note:** 326.585 becomes operative January 1, 2006. See section 5, chapter 776, Oregon Laws 2003.

**326.587 Disclosure of Social Security number of higher education student.** (1) A state institution of higher education may not disclose the Social Security number of a student who is attending the institution.

(2) Subsection (1) of this section does not apply if the institution discloses the Social Security number:

(a) At the request of a law enforcement agency or an agency providing support enforcement services under ORS 25.080;

(b) After obtaining written permission for the disclosure from the student to whom the number refers;

(c) In the payment of wages or benefits;

(d) In the payment or collection of taxes or of a debt owed by the student to whom the number refers; or

(e) For purposes of statistical analysis. [2003 c.776 §2]

**Note:** 326.587 becomes operative January 1, 2006. See section 5, chapter 776, Oregon Laws 2003.

**326.589 Disclosure of Social Security number of community college student.** (1) A community college as defined in ORS 341.005 may not disclose the Social Security number of a student who is attending the college.

(2) Subsection (1) of this section does not apply if the college discloses the Social Security number:

(a) At the request of a law enforcement agency or an agency providing support enforcement services under ORS 25.080;

(b) After obtaining written permission for the disclosure from the student to whom the number refers;

(c) In the payment of wages or benefits;

(d) In the payment or collection of taxes or of a debt owed by the student to whom the number refers; or

(e) For purposes of statistical analysis. [2003 c.776 §3]

**Note:** 326.589 becomes operative January 1, 2006. See section 5, chapter 776, Oregon Laws 2003.

**326.591 Action for disclosure of Social Security number.** (1) A student who suffers an ascertainable loss of money, personal property or real property as a result of a violation of ORS 326.587 or 326.589 may bring an action in a circuit court to recover the student’s actual damages.

(2) The court may award reasonable attorney fees to the party that prevails in an action on a claim under this section. [2003 c.776 §4]

**Note:** 326.591 becomes operative January 1, 2006. See section 5, chapter 776, Oregon Laws 2003.

**326.600** [1987 c.684 §1; 1989 c.477 §1; renumbered 329.170 in 1993]

## CRIMINAL OFFENDER INFORMATION PROCESS

**326.603 Process for obtaining criminal offender information for districts and schools; rules; fee.** (1)(a) A school district shall send to the Department of Education for purposes of a criminal records check any information, including fingerprints, for each subject individual described in ORS 181.539 (5)(d)(D), (E), (F), (H) or (I).

(b) A private school may send to the Department of Education for purposes of a criminal records check any information, including fingerprints, for each subject individual described in ORS 181.539 (5)(d)(D), (E), (F) or (H).

(2) The Department of Education shall request criminal offender information from the Department of State Police in the manner required by ORS 181.539 and shall charge the district or private school a fee of \$42 for the cost of acquiring and furnishing the information described in ORS 181.525 and 181.539. The school district or private school may recover its costs or a portion thereof from the subject individual described in ORS 181.539 (5)(d)(D), (E), (F), (H) or (I). If the subject individual described in ORS 181.539 (5)(d)(E), (F) or (I) requests, the district shall and a private school may withhold the amount from amounts otherwise due the individual, including a periodic payroll deduction rather than a lump sum payment.

(3)(a) If the Superintendent of Public Instruction informs the school district that the subject individual has been convicted of a crime listed in ORS 342.143 or has made a false statement as to the conviction of a crime, the superintendent shall notify the school district of the fact and the district shall not employ or contract with the individual. Notification by the superintendent that the school district shall not employ or contract with the subject individual shall remove the individual from any school district policies, collective bargaining provisions re-

garding dismissal procedures and appeals and the provisions of ORS 342.805 to 342.937.

(b) The Superintendent of Public Instruction shall notify the private school if the subject individual has been convicted of a crime listed in ORS 342.143 or has made a false statement as to the conviction of a crime. Based on the notice, the private school may choose not to employ or contract with the individual.

(c) The criminal records are confidential and shall not be released to the district or private school but are subject to inspection by the subject individual. The subject individual, other than a subject individual in a private school, may appeal the determination as a contested case under ORS 183.413 to 183.470 and the superintendent shall notify the subject individual of the right to appeal the determination.

(4) If an individual described in subsection (1) of this section refuses to consent to the criminal records check or refuses to be fingerprinted or if the subject individual falsely swears to the nonconviction of a crime, the district shall terminate the employment or contract status of the individual. Termination under this subsection shall remove the individual from any school district policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of ORS 342.805 to 342.937.

(5) The State Board of Education by rule shall specify the information to be required by subsection (1) of this section.

(6)(a) A school district shall not hire or continue to employ or contract with or allow the contractor to continue to assign an individual to the school project if the individual described in subsection (1) of this section has been convicted of a crime according to the provisions of ORS 342.143.

(b) School district employment and contract forms shall contain a notice that employment or contracting is subject to fingerprinting and a criminal records check as required by ORS 181.525, 181.537, 181.539, 326.603, 342.223, 342.227 and 342.232.

(7) As used in this section and ORS 326.607:

(a) "Private school" means a school that provides educational services as defined in ORS 345.505 and is registered as a private school under ORS 345.505 to 345.575.

(b) "School district" means:

(A) A school district as defined in ORS 330.003.

(B) The Oregon State School for the Blind.

(C) The Oregon State School for the Deaf.

(D) An educational program under the Youth Corrections Education Program.

(E) A public charter school as defined in ORS 338.005.

(F) An education service district. [1993 c.674 §8; 1995 c.67 §40; 1995 c.446 §7; 1997 c.4 §1; 1997 c.536 §1; 1997 c.753 §2; 1999 c.200 §25; 1999 c.1054 §4; 2001 c.407 §4]

**326.605** [1987 c.684 §2; 1989 c.477 §2; renumbered 329.175 in 1993]

**326.607 Criminal history check for school district, private school and charter school volunteers or applicants for employment; fee.** (1) Upon request from a school district, a private school or a public charter school or a school district, private school or public charter school contractor and with consent from the individual, the Department of Education may conduct an Oregon criminal history check using the Law Enforcement Data System for screening any individual who is a volunteer for the school district, private school or public charter school and who has direct, unsupervised contact with school children, or for screening applicants for employment.

(2) The department may charge the requesting school district, private school, public charter school or school district, private school or public charter school contractor a fee not to exceed \$5 for each request under subsection (1) of this section. [1995 c.446 §3; 1997 c.536 §2; 1999 c.200 §26]

**326.610** [1987 c.684 §3; 1989 c.477 §3; renumbered 329.180 in 1993]

**326.615** [1987 c.684 §4; 1989 c.477 §4; 1993 c.676 §48; renumbered 329.190 in 1993]

**326.620** [1987 c.684 §5; 1989 c.477 §5; renumbered 329.195 in 1993]

**326.625** [1987 c.684 §6; 1989 c.477 §6; renumbered 329.200 in 1993]

## YOUTH CORRECTIONS AND JUVENILE DETENTION EDUCATION PROGRAMS

**326.695 Definitions for ORS 326.700 and 326.712.** As used in ORS 326.700 and 326.712:

(1) "Juvenile Detention Education Program" means the provision of educational services to youths lodged overnight who receive educational services on consecutive days within a detention facility, as defined in ORS 419A.004.

(2) "Youth Corrections Education Program" means the provision of educational services to youths in youth correction facilities, as defined in ORS 420.005. [2001 c.681 §2]

**326.700 Purpose of programs; distribution of State School Fund.** It is the purpose of ORS 326.712 and 327.026 and this section that youths enrolled in the Youth

Corrections Education Program and the Juvenile Detention Education Program administered by the Department of Education be treated as nearly the same as practicable in the distribution of the State School Fund as children enrolled in common and union high school districts in this state. [Formerly 420.405; 2001 c.681 §3]

**326.705** [1991 c.693 §1; 1993 c.45 §21; renumbered 329.005 in 1993]

**326.710** [1991 c.693 §1b; 1993 c.45 §23; renumbered 329.015 in 1993]

**326.712 Superintendent may contract with district to provide programs.** The Superintendent of Public Instruction may contract with an education service district or a school district to provide teachers, counselors or other personnel for the Youth Corrections Education Program and the Juvenile Detention Education Program. However, the programs may not be considered a component district and the students enrolled in the programs may not be counted in determining the number of pupils in average daily membership for purposes of ORS 334.175 (2)(a). [1995 c.798 §1; 1995 c.422 §133b; 2001 c.681 §4]

**326.715** [1991 c.693 §3; 1993 c.45 §24; renumbered 329.025 in 1993]

**326.720** [1991 c.693 §2; 1993 c.45 §25; renumbered 329.035 in 1993]

**326.725** [1991 c.693 §5; renumbered 329.045 in 1993]

**326.730** [1991 c.693 §19g; 1993 c.45 §26; renumbered 329.445 in 1993]

**326.735** [1991 c.693 §31; 1993 c.45 §27; renumbered 329.055 in 1993]

**326.740** [1991 c.693 §37; 1993 c.45 §28; renumbered 329.065 in 1993]

**326.745** [1991 c.693 §38; 1993 c.45 §29; renumbered 329.075 in 1993]

**326.755** [1991 c.693 §7; renumbered 329.085 in 1993]

**326.760** [1991 c.693 §8; renumbered 329.095 in 1993]

**326.765** [1991 c.693 §9; 1993 c.45 §30; renumbered 329.105 in 1993]

**326.770** [1991 c.693 §10; 1993 c.45 §31; renumbered 329.115 in 1993]

**326.775** [1991 c.693 §4; 1993 c.45 §32; renumbered 329.125 in 1993]

**326.785** [1991 c.693 §4c; renumbered 329.145 in 1993]

**326.790** [1991 c.693 §4a; renumbered 329.150 in 1993]

**326.795** [1991 c.693 §4b; 1993 c.676 §23; renumbered 329.155 in 1993]

**326.810** [1991 c.693 §18; renumbered 329.160 in 1993]

**326.813** [1991 c.693 §18a; renumbered 329.165 in 1993]

**326.815** [1991 c.693 §18b; renumbered 329.185 in 1993]

**326.830** [1991 c.693 §23; 1993 c.45 §33; renumbered 329.850 in 1993]

**326.835** [1991 c.693 §28; renumbered 329.855 in 1993]

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

