

Chapter 339

2009 EDITION

School Attendance; Admission; Discipline; Safety

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GENERAL PROVISIONS

339.005 Definition for ORS 339.040 and 339.125. As used in ORS 339.040 and 339.125, unless the context requires otherwise, “administrative office for the county” means the administrative office of the education service district or of a common school district that includes an entire county. [1965 c.100 §273; 1973 c.728 §3; 1987 c.158 §56; 1991 c.167 §23; 2003 c.226 §17]

COMPULSORY SCHOOL ATTENDANCE

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

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

339.030 Exemptions from compulsory school attendance; rules. (1) In the following cases, children may not be required to attend public full-time schools:

(a) Children being taught in a private or parochial school in the courses of study usually taught in grades 1 through 12 in the public schools and in attendance for a period equivalent to that required of children attending public schools in the 1994-1995 school year.

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

(c) Children who have received a high school diploma.

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

(e) Children being educated in the children’s home by a parent or legal guardian.

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

(2) The State Board of Education by rule shall establish procedures whereby, on a semiannual basis, an exemption from compulsory attendance may be granted to the parent or legal guardian of any child 16 or 17 years of age who is lawfully employed

full-time, lawfully employed part-time and enrolled in school, a community college or an alternative education program as defined in ORS 336.615. An exemption also may be granted to any child who is an emancipated minor or who has initiated the procedure for emancipation under ORS 419B.550 to 419B.558. [Amended by 1965 c.100 §276; 1967 c.67 §8; 1971 c.494 §1; 1973 c.728 §1; 1985 c.579 §1; 1989 c.619 §1; 1993 c.546 §138; 1995 c.769 §2; 1999 c.59 §85; 1999 c.717 §1; 2001 c.490 §8; 2007 c.407 §3]

339.035 Teaching by private teacher, parent or guardian; notice; examination; rules; effect of low or declining score. (1) As used in this section, “education service district” means the education service district that contains the school district of which the child is a resident.

(2) When a child is taught or is withdrawn from a public school to be taught by a parent, legal guardian or private teacher, as provided in ORS 339.030, the parent, legal guardian or private teacher must notify the education service district in writing. In addition, when a child who is taught by a parent, legal guardian or private teacher moves to a new education service district, the parent, legal guardian or private teacher shall notify the new education service district in writing. The education service district shall acknowledge receipt of any notification in writing.

(3) Children being taught as provided in subsection (2) of this section shall be examined at grades 3, 5, 8 and 10 in accordance with the following procedures:

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

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

(B) If the child was withdrawn from public school, the first examination shall be administered to the child at least 18 months after the date on which the child was withdrawn from public school.

(C) If the child never attended public or private school, the first examination shall be administered to the child prior to the end of grade three.

(c) The person administering the examination shall:

(A) Score the examination; and

(B) Report the results of the examination to the parent or legal guardian.

(d) Upon request of the superintendent of the education service district, the parent or legal guardian shall submit the results of

the examination to the education service district.

(4)(a) If the composite test score of the child places the child below the 15th percentile based on national norms, the child shall be given an additional examination within one year of when the first examination was administered.

(b) If the composite test score of the child on the second examination shows a declining score, then the child shall be given an additional examination within one year of when the second examination was administered and the superintendent of the education service district may:

(A) Allow the child to continue to be taught by a parent, legal guardian or private teacher; or

(B) Place the education of the child under the supervision of a person holding a teaching license who is selected by the parent or legal guardian at the expense of the parent or legal guardian. If the composite test score of the child continues to show a declining score, the superintendent of the education service district may:

(i) Allow the child to continue under the educational supervision of a licensed teacher selected by the parent or legal guardian and require that the child be given an additional examination within one year of when the last examination was administered;

(ii) Allow the child to be taught by a parent, legal guardian or private teacher and require that the child be given an additional examination within one year of when the last examination was administered; or

(iii) Order the parent or legal guardian to send the child to school for a period not to exceed 12 consecutive months as determined by the superintendent.

(c) If the parent or legal guardian of the child does not consent to placing the education of the child under the supervision of a licensed teacher who is selected by the parent or legal guardian, then the superintendent of the education service district may order the child to return to school for a period not to exceed 12 consecutive months as determined by the superintendent.

(d) If the composite test score of the child on an examination is equal to or greater than the percentile score on the prior test, the child may be taught by a parent, legal guardian or private teacher and for the next examination be examined pursuant to paragraph (a) of this subsection or subsection (3) of this section.

(5)(a) Notwithstanding the examination requirements of subsections (3) and (4) of this section, the parent or legal guardian of a

child with a disability who has an individualized education plan and is receiving special education and related services through the school district or who is being educated in accordance with a privately developed plan shall be evaluated for satisfactory educational progress according to the recommendations of the plan.

(b) The parent or legal guardian of a child with a disability who was evaluated by service providers selected by the parent or legal guardian based on a privately developed plan shall submit a report of such evaluation to the education service district in lieu of the examination results required by subsections (3) and (4) of this section.

(c) A child with a disability described in this subsection shall not be subject to the examination requirements of subsections (3) and (4) of this section unless the examination is recommended in the plan in effect for the child. [1985 c.579 §2; 1989 c.619 §4; 1999 c.717 §1a; 2007 c.70 §95]

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

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

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

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

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

339.055 Duties of attendance supervisors. The attendance supervisor when notified of a truancy or unexcused absence shall investigate the truancy or nonattendance at

school. If the child is not exempt from compulsory school attendance, the attendance supervisor shall proceed as provided in ORS 339.080 and 339.090. [Formerly 339.100]

339.060 [Repealed by 1965 c.100 §456]

339.065 Estimates of attendance; irregular attendance; excused absences. (1) In estimating regular attendance for purposes of the compulsory attendance provisions of ORS 339.005 to 339.030, 339.040 to 339.125, 339.137, 339.420 and 339.990, the principal or teacher shall consider all unexcused absences. Eight unexcused one-half day absences in any four-week period during which the school is in session shall be considered irregular attendance.

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

(3) Any pupil may be excused from attendance by the district school board for a period not to exceed five days in a term of three months or not to exceed 10 days in any term of at least six months. Any such excuse shall be in writing directed to the principal of the school which the pupil attends. [1965 c.100 §281; 1973 c.728 §4; 1987 c.158 §57; 1993 c.45 §114]

339.070 [Repealed by 1963 c.544 §52]

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

(2) At the same time notice is given to the parent or other person, the attendance supervisor shall notify the superintendent or principal, as suitable, of the fact of the notice. The superintendent or principal shall notify the attendance supervisor of any failure on the part of the parent or other person to comply with the notice.

(3) If the child who is the subject of a notice under subsection (1) of this section is a youth offender on parole or probation, at

the same time notice is given to the parent or other person, the attendance supervisor shall notify the child's parole or probation officer of the child's absence. [Amended by 1965 c.100 §282; 1993 c.45 §115; 1999 c.963 §4]

339.090 Determination of compliance; notice to district superintendent. The attendance supervisor shall determine whether the parent or other person given written notice of attendance requirements has complied with the notice. If the attendance supervisor determines that the parent or other person has failed to comply, the attendance supervisor, within three days after having knowledge of such failure or after being notified thereof, shall notify the district superintendent. [Amended by 1965 c.100 §283; 1993 c.413 §2]

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

339.110 [Repealed by 1965 c.100 §456]

ADMISSION OF STUDENTS

339.115 Admission of students; waiver; denial. (1) Except as provided in ORS 339.141, authorizing tuition for courses not part of the regular school program, the district school board shall admit free of charge to the schools of the district all persons between the ages of 5 and 19 who reside within the school district. A person whose 19th birthday occurs during the school year shall continue to be eligible for a free and appropriate public education for the remainder of the school year. A district school board may admit nonresident persons, determine who is not a resident of the district and fix rates of tuition for nonresidents.

(2)(a) A district must admit an otherwise eligible person who has not yet attained 21 years of age prior to the beginning of the current school year if the person is:

(A) Receiving special education and has not yet received a high school diploma as described in ORS 329.451 (2); or

(B) Receiving special education and has received a modified diploma, an extended diploma or an alternative certificate as described in ORS 329.451.

(b) A district may admit an otherwise eligible person who is not receiving special education and who has not yet attained 21 years of age prior to the beginning of the current school year if the person is shown to be in need of additional education in order to receive a high school diploma.

(3) The obligation to make a free appropriate public education available to individuals with disabilities 18 through 21 years of age who are incarcerated in an adult correctional facility applies only to those individuals who, in their last educational placement

prior to their incarceration in the adult correctional facility:

(a) Were identified as being a child with a disability as defined in ORS 343.035; or

(b) Had an individualized education program as described in ORS 343.151.

(4) For purposes of subsection (3) of this section, "adult correctional facility" means:

(a) A local correctional facility as defined in ORS 169.005;

(b) A regional correctional facility as defined in ORS 169.620; or

(c) A Department of Corrections institution as defined in ORS 421.005.

(5) An otherwise eligible person under subsection (2) of this section whose 21st birthday occurs during the school year shall continue to be eligible for a free appropriate public education for the remainder of the school year.

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

(7) Notwithstanding ORS 339.133 (1), a school district shall not exclude from admission a child located in the district solely because the child does not have a fixed place of residence or solely because the child is not under the supervision of a parent, guardian or person in a parental relationship.

(8) Notwithstanding subsection (1) of this section, a school district:

(a) May for the remaining period of an expulsion deny admission to the regular school to a resident student who is expelled from another school district; and

(b) Shall for at least one calendar year from the date of the expulsion and if the expulsion is for more than one calendar year, may for the remaining period of time deny admission to the regular school program to a student who is under expulsion from another school district for an offense that constitutes a violation of a school district policy adopted pursuant to ORS 339.250 (6).

(9) A child entering the first grade during the fall term shall be considered to be six years of age if the sixth birthday of the child occurs on or before September 1. A child entering kindergarten during the fall term shall be considered to be five years of age if the fifth birthday of the child occurs on or before September 1. However, nothing in this section prevents a district school board from

admitting free of charge a child whose needs for cognitive, social and physical development would best be met in the school program, as defined by policies of the district school board, to enter school even though the child has not attained the minimum age requirement but is a resident of the district. [1965 c.100 §285; 1971 c.410 §1; 1977 c.463 §1; 1983 c.193 §1; 1987 c.283 §2; 1989 c.132 §1; 1989 c.215 §1; 1991 c.693 §26; 1995 c.656 §1; 1995 c.660 §46; 1996 c.16 §1; 1999 c.989 §1; 2005 c.209 §29; 2005 c.662 §16; 2007 c.464 §2; 2007 c.660 §18; 2009 c.618 §5]

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

339.125 Admission of nonresident pupils; costs. (1) The district school board may contract with the district school board of any other district for the admission of pupils in schools of the other district. The contract shall be in writing upon forms furnished by the Department of Education. Expense incurred shall be paid out of the school funds of the district sending such pupils. If the district sending the pupils fails to pay the expense so incurred according to the terms of the contract, the administrative office for the county containing such school district, after satisfactory proof of such failure, shall deduct the amount of the unpaid expense from the amount due the school district at the next regular apportionment. The county treasurer shall pay the amount of the reduced apportionment out of the county school fund.

(2) In case the school district sending the pupils is a joint district, jurisdiction shall be exercised by the administrative office for the county in which the most populous part of such district is situated, according to the latest school census. The office's action in the matter is final. [1965 c.100 §286; 1993 c.45 §116]

339.129 Education for children in local or regional correctional facilities required; funding; notice to district; access.

(1) A school district shall provide or cause to be provided appropriate education for children placed in a local or regional correctional facility located in the school district. The education may be provided by the school district or an education service district.

(2) The school district may claim State School Fund reimbursement under ORS 327.006 to 327.133, 327.348, 327.355, 327.357, 327.360 and 327.731 for each child who is in a local or regional correctional facility.

(3) A local or regional correctional facility shall notify the school district within which the facility is located of the name and date of birth of each school-age child placed in the facility, including a child with a disability under the age of 22 years who may be eligible for special education. The notice shall be in writing and shall be given within

five business days of the child's placement in the facility.

(4) The local or regional correctional facility shall allow the school district and education service district to have safe and reasonable access to children placed in that facility for whom the school district is required to provide education.

(5) As used in this section:

(a) "Local correctional facility" means a local correctional facility as defined in ORS 169.005.

(b) "Regional correctional facility" means a regional correctional facility as defined in ORS 169.620. [1996 c.19 §1; 1999 c.989 §2]

Note: The amendments to 339.129 by section 16, chapter 846, Oregon Laws 2007, become operative June 30, 2012. See section 19, chapter 846, Oregon Laws 2007. The text that is operative on and after June 30, 2012, is set forth for the user's convenience.

339.129. (1) A school district shall provide or cause to be provided appropriate education for children placed in a local or regional correctional facility located in the school district. The education may be provided by the school district or an education service district.

(2) The school district may claim State School Fund reimbursement under ORS 327.006 to 327.133, 327.348 and 327.731 for each child who is in a local or regional correctional facility.

(3) A local or regional correctional facility shall notify the school district within which the facility is located of the name and date of birth of each school-age child placed in the facility, including a child with a disability under the age of 22 years who may be eligible for special education. The notice shall be in writing and shall be given within five business days of the child's placement in the facility.

(4) The local or regional correctional facility shall allow the school district and education service district to have safe and reasonable access to children placed in that facility for whom the school district is required to provide education.

(5) As used in this section:

(a) "Local correctional facility" means a local correctional facility as defined in ORS 169.005.

(b) "Regional correctional facility" means a regional correctional facility as defined in ORS 169.620.

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

RESIDENCY

339.133 Residency of student for school purposes; how determined; transportation of student. (1) Except as provided in subsection (3), (4), (5) or (7) of this section, children between the ages of 4 and 18 shall be considered resident for school purposes in the school district in which their parents, their guardians or persons in parental relationship to them reside.

(2) Nonemancipated individuals between the ages of 4 and 18 living outside the geographic area of the school district for such reasons as attending college, military service, hospital confinement or employment away from home shall be considered resident

in the district in which their parents, their guardians or persons in parental relationship to them reside.

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

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

(5)(a) Notwithstanding subsection (4) of this section, when a juvenile court determines that it is in a child's best interest to continue to attend the school that the child attended prior to placement by a public agency, the child:

(A) Shall be considered resident for school purposes in the school district in which the child resided prior to the placement; and

(B) May continue to attend the school the child attended prior to the placement through the highest grade level of the school.

(b) The public agency that has placed the child shall be responsible for providing the child with transportation to and from school when the need for transportation is due to the placement by the public agency.

(c) Paragraph (b) of this subsection applies only to a public agency for which funds have been designated for the specific purpose of providing a child with transportation to and from school under this subsection.

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

(7) Except as provided in ORS 327.006 (7) and 335.090, persons whose legal residence is not within the district but who attend school in the district with the written consent of the affected district school boards shall be considered to be residents in the district in which the persons attend school for purposes of the receipt by that district of State School Fund moneys for those persons.

(8) For the purposes of this section:

(a) "Person in parental relationship" means an adult who has physical custody of a child or resides in the same household as the child, interacts with the child daily, provides the child with food, clothing, shelter

and incidental necessities and provides the child with necessary care, education and discipline. "Person in parental relationship" does not mean a person with a power of attorney or other written delegation of parental responsibilities if the person does not have other evidence of a parental relationship.

(b) "Substitute care program" means family foster care, family group home care, parole foster care, family shelter care, adolescent shelter care and professional group care. [Formerly 332.595; 1997 c.821 §21; 2005 c.521 §1; 2007 c.464 §1; 2009 c.11 §42]

339.134 Residency of child with disability. (1) Notwithstanding ORS 339.133 (4), a child with a disability shall be considered a resident for school purposes in the school district in which the child's parent or guardian resides if:

(a) The child is voluntarily placed outside the child's home by the child's parent or guardian;

(b) The child's parent or guardian retains legal guardianship of the child;

(c) There is a plan for the child to return home;

(d) The placement is within 20 miles by the nearest traveled road from the original school building, unless there are physiographic conditions that make transportation to the original school building not feasible; and

(e) The child's parent or guardian and the school staff can demonstrate that it is in the best interest of the child to continue to attend the school the child was attending prior to the placement. The best interest of the child may be demonstrated by factors, including but not limited to the following:

(A) The child's siblings attend the school;

(B) A change in the child's routine would be detrimental to the child; or

(C) The child has developed and maintained a network of personal contacts, support services and friends and a sense of community within the school.

(2) If a child qualifies under subsection (1) of this section, the child may continue to attend the school the child was attending prior to the placement in the child's resident school district.

(3) Nothing in this section shall affect the ability of school districts to enter into agreements with other school districts for the transportation of students. [1995 c.567 §2]

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

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

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

(3) Except as provided in ORS 343.261, 343.961 and 346.010, the school district shall provide or cause to be provided appropriate education to any student described in subsection (1) of this section, including the identification and evaluation of the student for purposes of determining eligibility as a child with a disability to receive special education and related services enumerated in ORS 343.035 and services related to a disadvantaged child as defined in ORS 343.650. Suspension or expulsion of a student from the regular school program does not relieve the district of the obligation to provide instruction in the residential program in which the child resides or in another appropriate facility. [1993 c.45 §119; 1999 c.989 §34; 2001 c.900 §241; 2007 c.70 §96]

339.140 [Repealed by 1965 c.100 §456]

TUITION AND FEES

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

(a) "Public charter school" has the meaning given that term in ORS 338.005.

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

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

(2) Except as provided in subsection (3) of this section, district school boards and public charter schools may establish tuition rates to be paid by pupils receiving instruction in educational programs, classes or courses of study, including traffic safety education, which are not a part of the regular school program. Tuition charges, if made, shall not exceed the estimated cost to the district or public charter school of furnishing the program, class or course of study.

(3) Except as provided in ORS 336.805 for traffic safety education:

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

(b) No program, class or course of study for which tuition is charged, except courses of study beyond the 12th grade, shall be eligible for reimbursement from state funds. [Formerly 336.165; 1999 c.200 §31; 1999 c.328 §12]

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

339.147 When tuition authorized; waiver of tuition and fees. (1)(a) Notwithstanding ORS 339.141, no district school board or public charter school as defined in ORS 338.005 shall require tuition for courses not part of the regular school program, except for traffic safety education, from a pupil who is a member of a low-income family in an amount in excess of what the low-income family may receive as money specifically to be used for payment of such tuition.

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

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

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

(4) No district school board or public charter school shall impose or collect fees authorized under ORS 339.155 from any student who is a ward of a juvenile court or of the Oregon Youth Authority or the Department of Human Services unless funds are available therefor in the court’s, authority’s or department’s budget.

(5) No district school board or public charter school is required to waive any fee imposed under ORS 339.155 (5)(a) or (d). [Formerly 336.168; 1997 c.249 §99; 1999 c.200 §32; 1999 c.328 §13]

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

339.155 Prohibitions of certain fees as condition of admission; allowable fees. (1) A district school board or public charter school as defined in ORS 338.005 may not require payment of fees as a condition of admission to those pupils entitled under the law to free admission. However, the following are not considered as conditions of admission:

(a) Pursuant to ORS 339.141, but subject to ORS 339.147, tuition may be charged for courses not part of the regular school program.

(b) A charge may not be made for a standard, prescribed textbook but a security deposit may be required, which may be refunded if the textbook is returned in usable condition. Supplemental texts shall be made available on loan.

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

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

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

(4)(a) A district school board or public charter school may require payment of fees for the use of musical instruments owned or rented by the district or public charter school. The district school board or public charter school may not charge a fee that exceeds the rental cost of the instrument to the district or public charter school or the annual depreciation plus actual maintenance cost for each instrument.

(b) Notwithstanding paragraph (a) of this subsection, a district school board or public charter school may not require payment of fees for the use of a musical instrument from children exempt from tuition under ORS 339.147. The district school board or public charter school shall lend musical instruments, without charge, to children exempt from tuition under ORS 339.147.

(5) Subject to ORS 339.147, a district school board or public charter school may require payments of fees in any of the following:

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

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

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

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

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

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

(g) As used in this subsection, "minimum course requirements" means any product required to be produced to meet the goals of the course. [1975 c.508 §1; 1977 c.99 §1; 1977 c.815 §3; 1999 c.200 §33; 2003 c.14 §149]

339.160 [Repealed by 1965 c.100 §456]

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

339.170 [Repealed by 1965 c.100 §456]

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

339.180 [Repealed by 1965 c.100 §456]

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

339.190 [Repealed by 1965 c.100 §456]

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

339.200 [Repealed by 1965 c.100 §456]

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

STUDENT CONDUCT AND DISCIPLINE

339.240 Rules of student conduct, discipline and rights; duties of state board and district school boards. (1) The State Board of Education in accordance with ORS chapter 183 shall adopt rules setting minimum standards for pupil conduct and discipline and for rights and procedures pertaining thereto that are consistent with orderly operation of the educational processes and with fair hearing requirements. The rules shall be distributed by the Superintendent of Public Instruction to all school districts.

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

(3) Every district school board shall enforce consistently and fairly its written rules regarding pupil conduct, discipline and

rights. This subsection does not apply to a pupil who is eligible for special education as a child with a disability under ORS 343.035. [1971 c.561 §§2,3; 1993 c.45 §123; 1999 c.726 §1; 2007 c.70 §97]

339.250 Duty of student to comply with rules; discipline, suspension, expulsion, removal and counseling; written information on alternative programs required. (1) Public school students shall comply with rules for the government of such schools, pursue the prescribed course of study, use the prescribed textbooks and submit to the teachers' authority.

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

(3) The district school board may authorize the discipline, suspension or expulsion of any refractory student and may suspend or expel any student who assaults or menaces a school employee or another student. The age of a student and the past pattern of behavior of a student shall be considered prior to a suspension or expulsion of a student. As used in this subsection "menace" means by word or conduct the student intentionally attempts to place a school employee or another student in fear of imminent serious physical injury.

(4)(a) Willful disobedience, willful damage or injury to school property, use of threats, intimidation, harassment or coercion against any fellow student or school employee, open defiance of a teacher's authority or use or display of profane or obscene language is sufficient cause for discipline, suspension or expulsion from school.

(b) District school boards shall develop policies on managing students who threaten violence or harm in public schools. The policies adopted by a school district shall include staff reporting methods and shall require an administrator to consider:

(A) Immediately removing from the classroom setting any student who has threatened to injure another person or to severely damage school property.

(B) Placing the student in a setting where the behavior will receive immediate attention, including, but not limited to, the office of the school principal, vice principal,

assistant principal or counselor or a school psychologist licensed by the Teacher Standards and Practices Commission or the office of any licensed mental health professional.

(C) Requiring the student to be evaluated by a licensed mental health professional before allowing the student to return to the classroom setting.

(c) The administrator shall notify the parent or legal guardian of the student's behavior and the school's response.

(d) District school boards may enter into contracts with licensed mental health professionals to perform the evaluations required under paragraph (b) of this subsection.

(e) District school boards shall allocate any funds necessary for school districts to implement the policies adopted under paragraph (b) of this subsection.

(5) Expulsion of a student shall not extend beyond one calendar year and suspension shall not extend beyond 10 school days.

(6)(a) Notwithstanding subsection (5) of this section, a school district shall have a policy that requires the expulsion from school for a period of not less than one year of any student who is determined to have:

(A) Brought a weapon to a school, to school property under the jurisdiction of the district or to an activity under the jurisdiction of the school district;

(B) Possessed, concealed or used a weapon in a school or on school property or at an activity under the jurisdiction of the district; or

(C) Brought to or possessed, concealed or used a weapon at an interscholastic activity administered by a voluntary organization approved by the State Board of Education under ORS 339.430.

(b) The policy shall allow an exception for courses, programs and activities approved by the school district that are conducted on school property, including but not limited to hunter safety courses, Reserve Officer Training Corps programs, weapons-related sports or weapons-related vocational courses. In addition, the State Board of Education may adopt by rule additional exceptions to be included in school district policies.

(c) The policy shall allow a superintendent to modify the expulsion requirement for a student on a case-by-case basis.

(d) The policy shall require a referral to the appropriate law enforcement agency of any student who is expelled under this subsection.

(e) For purposes of this subsection, "weapon" includes a:

(A) "Firearm" as defined in 18 U.S.C. 921;

(B) "Dangerous weapon" as defined in ORS 161.015; or

(C) "Deadly weapon" as defined in ORS 161.015.

(7) The Department of Education shall collect data on any expulsions required pursuant to subsection (6) of this section including:

(a) The name of each school;

(b) The number of students expelled from each school; and

(c) The types of weapons involved.

(8) Notwithstanding ORS 336.010, a school district may require a student to attend school during nonschool hours as an alternative to suspension.

(9) Unless a student is under expulsion for an offense that constitutes a violation of a school district policy adopted pursuant to subsection (6) of this section, a school district board shall consider and propose to the student prior to expulsion or leaving school, and document to the parent, legal guardian or person in parental relationship, alternative programs of instruction or instruction combined with counseling for the student that are appropriate and accessible to the student in the following circumstances:

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

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

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

(d) When a parent or legal guardian applies for a student's exemption from compulsory attendance on a semiannual basis as provided in ORS 339.030 (2).

(10) A school district board may consider and propose to a student who is under expulsion or to a student prior to expulsion for an offense that constitutes a violation of a school district policy adopted pursuant to subsection (6) of this section, and document to the parent, legal guardian or person in parental relationship, alternative programs of instruction or instruction combined with counseling for the student that are appropriate and accessible to the student.

(11) Information on alternative programs provided under subsections (9) and (10) of this section shall be in writing. The information need not be given to the student and the parent, guardian or person in parental relationship more often than once every six

months unless the information has changed because of the availability of new programs.

(12)(a) The authority to discipline a student does not authorize the infliction of corporal punishment. Every resolution, by-law, rule, ordinance or other act of a district school board, a public charter school or the Department of Education that permits or authorizes the infliction of corporal punishment upon a student is void and unenforceable.

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

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

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

(B) Physical pain or discomfort resulting from or caused by participation in athletic competition or other such recreational activity, voluntarily engaged in by a student. [1965 c.100 §289; 1971 c.561 §1; 1975 c.665 §1; 1979 c.739 §1a; 1979 c.836 §2; 1981 c.246 §2; 1989 c.619 §2; 1989 c.889 §1; 1995 c.656 §2; 1996 c.16 §2; 1999 c.59 §86; 1999 c.576 §1; 1999 c.717 §4; 2001 c.810 §7]

339.252 Child with disability continues to be entitled to free appropriate public education if removed for disciplinary reasons; due process procedures. (1) As used in this section, “child with a disability” has the meaning given that term in ORS 343.035.

(2) A child with a disability continues to be entitled to a free appropriate public education if the child has been removed for disciplinary reasons from the child’s current educational placement for more than 10 school days in a school year.

(3) A disciplinary removal is considered a change in educational placement and the school district shall follow special education due process procedures under ORS 343.155 (5) if:

(a) The removal is for more than 10 consecutive school days; or

(b) The child is removed for more than 10 cumulative school days in a school year, and those removals constitute a pattern based on the length and total time of removals and the proximity of the removals to one another.

(4) A child with a disability shall not be removed for disciplinary reasons under subsection (3) of this section for misconduct that is a manifestation of the child’s disability, except as provided under ORS 343.177.

(5) Notwithstanding ORS 339.250 (9) and (10), a school district shall provide a free appropriate public education in an alternative

setting to a child with a disability even if the basis for expulsion was a weapon violation pursuant to ORS 339.250 (6).

(6) School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a child with a disability who violates a code of student conduct. [1999 c.989 §4; 2005 c.662 §12; 2007 c.70 §98]

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

339.254 Suspension of student driving privileges; policy content. (1) A school district board may establish a policy regarding when a school superintendent or the board may file with the Department of Transportation a written request to suspend the driving privileges of a student or the right to apply for driving privileges. Such policy shall include:

(a) A provision authorizing the superintendent or the school district board to file with the Department of Transportation a written request to suspend the driving privileges of a student or the right to apply for driving privileges only if the student is at least 15 years of age and:

(A) The student has been expelled for bringing a weapon to school;

(B) The student has been suspended or expelled at least twice for assaulting or menacing a school employee or another student, for willful damage or injury to school property or for use of threats, intimidation, harassment or coercion against a school employee or another student; or

(C) The student has been suspended or expelled at least twice for possessing, using or delivering any controlled substance or for being under the influence of any controlled substance at a school or on school property or at a school sponsored activity, function or event.

(b) A provision requiring the school superintendent to meet with the parent or guardian of the student before submitting a written request to the Department of Transportation.

(c) A provision authorizing the school superintendent or board to request that the driving privileges of the student or the right to apply for driving privileges be suspended for no more than one year.

(d) Notwithstanding paragraph (c) of this subsection, a provision stating that, if a school superintendent or the school district board files a second written request with the Department of Transportation to suspend the driving privileges of a student, the request is that those privileges be suspended until the student is 21 years of age.

(e) A provision that a student may appeal the decision of a school superintendent regarding driving privileges of a student under the due process procedures of the school district for suspensions and expulsions.

(2) If the driving privileges of a student are suspended, the student may apply to the Department of Transportation for a hardship driver permit under ORS 807.240. [1995 c.656 §5; 2003 c.695 §1; 2005 c.209 §30]

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

339.257 Documentation of enrollment status for students applying for driving privileges; notification of student withdrawal from school to Department of Transportation. (1) The principal or a designee of the principal of a secondary school shall provide documentation of enrollment status on a form provided by the Department of Transportation to any student at least 15 years of age and under 18 years of age who is properly enrolled in the school and who needs the documentation in order to apply for issuance or reinstatement of driving privileges. The form shall be available at the administrative offices of the school district for a student who applies for issuance or reinstatement of driving privileges during school holidays.

(2) A school district board may establish a policy authorizing the superintendent of the school district or the board to notify the department of the withdrawal from school of a student who is at least 15 years of age and under 18 years of age. For purposes of this subsection, a student shall be considered to have withdrawn from school after more than 10 consecutive school days of unexcused absences or 15 school days total of unexcused absences during a single semester. A policy adopted under this subsection shall include a provision allowing a student to appeal a decision to notify the department.

(3) The governing body of a private school may establish a policy authorizing a representative of the school to notify the department of a student's withdrawal. Terms and conditions of the policy shall be the same as those described in subsection (2) of this section for a school district board. [1999 c.789 §4]

339.260 Withholding records until debt paid; liability of parent; waiver; notice; inspection. (1) A school district shall withhold the grade reports, diploma and records of any student or former student who owes a debt of \$50 or more to the school district. A school district may withhold the grade reports, diploma and records of any student or former student who owes a debt of less than \$50 to the school district. A school district

shall release the grade reports, diploma and records upon payment of the debt.

(2) A school district board shall adopt policies about how the school district shall collect from a student or the parent or guardian of the student any amount that is owed to a school district that is \$50 or more by a student or former student of the school district. In addition, the school district board may adopt policies for the collection of debt owed to the school district that is less than \$50.

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

(4) Notwithstanding subsections (1) and (2) of this section, a school district board may adopt policies that allow the school district to waive all or a portion of a debt owed to the school district by a student if:

(a) The school district determines that the student or the parent or guardian of the student is unable to pay the debt;

(b) The payment of the debt could impact the health or safety of the student;

(c) The creation of the notice required by subsection (7) of this section would cost more than the potential total debt collected relating to the notice; or

(d) There are mitigating circumstances as determined by the superintendent of the school district that preclude the collection of the debt.

(5) Notwithstanding subsection (1) of this section, a school district shall not withhold the education records of a student in the circumstances described in ORS 326.575 and applicable rules of the State Board of Education or when such records are requested for use in the appropriate placement of the student.

(6) Before any grade reports, diplomas or records are withheld under subsection (1) of this section or any debt is collected under subsection (2) of this section, a school district board shall adopt policies that ensure that the rights of the student to due process are protected. The policies adopted under this subsection and subsection (2) of this section shall meet the requirements of subsections (7) and (8) of this section.

(7) Prior to pursuing the collection of a debt owed to the school district by a student or former student or withholding any grade reports, diploma or records of a student or former student, the school district must give written or oral notice to the student and the parent or guardian of the student. The notice must state the reason the student owes money to the school district and the amount owed. The notice must inform the student

and the parent or guardian of the student that the school district intends to withhold the grade reports, diploma and records of the student until the debt is paid. The notice must also state that the school district may pursue the matter through a private collection agency or other method available to the school district. A school district may give more than one notice to the student and the parent or guardian of the student.

(8) Following a date that is at least 10 days after the date of the last notice given under subsection (7) of this section, if the student or the parent or guardian of the student has not paid the debt, the school district:

(a) Shall, if the debt is \$50 or more, withhold the grade reports, diploma and records of the student;

(b) May, if the debt is less than \$50, withhold the grade reports, diploma and records of the student; and

(c) May pursue the matter through a private collection agency or other method available to the school district.

(9) Nothing in this section is intended to prevent inspection of student education records by a parent or legal guardian pursuant to ORS 343.173, the rules of the State Board of Education and applicable state and federal law.

(10) Each school district shall notify students about the provisions of this section and ORS 339.270 at least once each school year.

(11) In any civil action by a school district against a student or parent or guardian of a student for the collection of a debt owed to the school district, if the school district is the prevailing party, the court shall award the school district costs and reasonable attorney fees. [1965 c.100 §290; 1971 c.561 §4; 1985 c.514 §1; 1993 c.806 §5; 1995 c.656 §3; 2003 c.690 §1]

339.270 Assessment of costs of school property damage against responsible student or parents or guardian; notice; action to recover. (1) If a school district finds that a student is responsible for damaging school district property, the school district shall determine the reasonable cost of repairing or replacing the school district property. If the cost is \$50 or more, the school district shall notify the student and the parent or guardian of the student about the cost and shall charge the student or the parent or guardian of the student for the cost of repairing or replacing the school district property. If the amount is not paid by the student or the parent or guardian of the student, or if other arrangements have not been made, within 10 days of receiving the notice under this subsection, the amount shall become a

debt owed by the student or the parent or guardian of the student, and the school district shall withhold the grade reports, diploma and records of the student pursuant to ORS 339.260.

(2) If the cost of repairing or replacing school district property is less than \$50, the school district may proceed under this section to collect the debt.

(3) If the debt owed to the school district is not paid as demanded, the school district board, in addition to any other remedy provided by law, may bring an action under this section against the student or parent or guardian of the student in a court of competent jurisdiction for the amount owed to the school district plus costs and reasonable attorney fees. [1971 c.561 §5; 1975 c.712 §2; 1977 c.419 §2; 1993 c.45 §124; 2003 c.690 §2]

339.280 Student grading policies; consideration of attendance allowed; policy content. Each school district board may establish student grading policies that permit teachers to consider a student's attendance in determining the student's grade or deciding whether the student should be granted or denied credit. A student's attendance shall not be the sole criterion for the reduction of a student's grade. Such policies shall provide that prior to reduction of grade or denial of credit:

(1) The teacher identifies how the student's attendance and participation in class is related to the instructional goals of the particular subject or course and gives notice to the student and parents or guardian of the student.

(2) Procedures are in effect to ensure due process when the grade is reduced or credit is denied for attendance rather than academic reasons.

(3) The reasons for the nonattendance are considered and the grade is not reduced or credit is not denied based on absences due to:

(a) Religious reasons;

(b) A student's disability; or

(c) An excused absence as determined by the policy of the school district. [1995 c.656 §4]

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

SCHOOL SAFETY

(Coordination and Information Sharing)

339.312 Safe school alliance. School districts are encouraged to form a safe school alliance composed of schools, law enforcement agencies, juvenile justice agencies and district attorneys. The purpose of a safe school alliance is to provide the safest school environment possible. [1999 c.964 §2]

339.315 Report required if person has possession of unlawful firearm or destructive device; immunity; law enforcement investigation required. (1)(a) Any employee of a public school district, an education service district or a private school who has reasonable cause to believe that a person, while in a school, is or within the previous 120 days has been in possession of a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382 shall report the person's conduct immediately to a school administrator, school director, the administrator's or director's designee or law enforcement agency within the county. A school administrator, school director or the administrator's or director's designee, who has reasonable cause to believe that the person, while in a school, is or within the previous 120 days has been in possession of a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382, shall promptly report the person's conduct to a law enforcement agency within the county. If the school administrator, school director or employee has reasonable cause to believe that a person has been in possession of a firearm or destructive device as described in this paragraph more than 120 days previously, the school administrator, school director or employee may report the person's conduct to a law enforcement agency within the county.

(b) Anyone participating in the making of a report under paragraph (a) of this subsection who has reasonable grounds for making the report is immune from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of the report. Any participant has the same immunity with respect to participating in any judicial proceeding resulting from the report.

(c) Except as required by ORS 135.805 to 135.873 and 419C.270 (5) or (6), the identity of a person participating in good faith in the making of a report under paragraph (a) of this subsection who has reasonable grounds for making the report is confidential and may not be disclosed by law enforcement agencies, the district attorney or any public or private school administrator, school director or employee.

(2) When a law enforcement agency receives a report under subsection (1) of this section, the law enforcement agency shall promptly conduct an investigation to determine whether there is probable cause to believe that the person, while in a school, did possess a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382.

(3) As used in this section, "school" means:

(a) A public or private institution of learning providing instruction at levels kindergarten through grade 12, or their equivalents, or any part thereof;

(b) The grounds adjacent to the institution; and

(c) Any site or premises that at the time is being used exclusively for a student program or activity that is sponsored or sanctioned by the institution, a public school district, an education service district or a voluntary organization approved by the State Board of Education under ORS 339.430 and that is posted as such.

(4) For purposes of subsection (3)(c) of this section, a site or premises is posted as such when the sponsoring or sanctioning entity has posted a notice identifying the sponsoring or sanctioning entity and stating, in substance, that the program or activity is a school function and that the possession of firearms or dangerous weapons in or on the site or premises is prohibited under ORS 166.370. [1999 c.577 §1]

339.317 Notice to school district of person charged with crime; immunity.

(1)(a) No later than five days after a person under 18 years of age is charged with a crime under ORS 137.707 or is waived under ORS 419C.349, 419C.352 or 419C.364, the district attorney or city attorney, if the person is waived to municipal court or, in the case of a juvenile department that has agreed to be responsible for providing the notice required under this section, the juvenile department shall give notice of the charge to the school administrator of the school attended by the person or to the school administrator of the school district in which the person resides. For purposes of this section, "school administrator" has the meaning given that term in ORS 419A.305.

(b) The district attorney, city attorney or juvenile department shall include in the notice the following:

(A) The crime with which the person is charged;

(B) The name and date of birth of the person;

(C) The names and addresses of the person's parents or guardians;

(D) The name and contact information of the attorney for the person, if known;

(E) The name and contact information of the individual to contact for further information about the notice;

(F) Any conditions of release or terms of probation; and

(G) Any other conditions required by the court.

(2) A person who sends records under this section is not civilly or criminally liable for failing to disclose the information under this section. [1999 c.620 §1; 2008 c.50 §4; 2009 c.447 §3]

339.319 Notice to school district of person convicted of crime; immunity.

(1)(a) When a person under 18 years of age is convicted of a crime under ORS 137.707 or following waiver under ORS 419C.349, 419C.352, 419C.364 or 419C.370 (1)(b), the agency supervising the person or, in the case of a juvenile department that has agreed to be responsible for providing the notice required under this section, the juvenile department shall give notice of the conviction within five days following sentencing to the school administrator of the school attended by the person or to the school administrator of the school district in which the person resides. For purposes of this section, "school administrator" has the meaning given that term in ORS 419A.305.

(b) The agency supervising the person or the juvenile department shall include in the notice:

(A) The name and date of birth of the person;

(B) The names and addresses of the person's parents or guardians;

(C) The crime of conviction;

(D) The sentence imposed;

(E) The name and contact information of the attorney for the person, if known;

(F) The name and contact information of the individual to contact for further information about the notice;

(G) Any conditions of release or terms of probation including, but not limited to, whether school attendance is a condition of the release; and

(H) Any other conditions required by the court.

(2) An agency supervising a person or anyone employed by or acting on behalf of an agency supervising a person who sends records under this section is not civilly or criminally liable for failing to disclose the information under this section. [1999 c.620 §2; 2008 c.50 §5; 2009 c.447 §4]

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

339.321 Notice to school district and law enforcement agencies of release or discharge of person; immunity. (1) No later than 15 days before the release or discharge of a person committed to the legal custody of the Department of Corrections or the supervisory authority of a county under ORS 137.707 or following waiver under ORS 419C.349, 419C.352, 419C.364 or 419C.370, the department or supervisory authority or, in

the case of a juvenile department that has agreed to be responsible for providing the notice required under this section, the juvenile department shall notify the following of the release or discharge if the person is under 21 years of age at the time of the release:

(a) Law enforcement agencies in the community in which the person is going to reside; and

(b) The school administrator of the school the person will attend or the school administrator of the school district in which the person will reside.

(2) The department, supervisory authority or the juvenile department shall include in the notification:

(a) The name and date of birth of the person;

(b) The date of release or discharge;

(c) The person's address;

(d) The names and addresses of the person's parents or guardians;

(e) The name and contact information of the attorney for the person, if known;

(f) The name and contact information of the individual to contact for further information about the notice;

(g) Any conditions of release or terms of probation including, but not limited to, the type of supervision under which the person is released and whether school attendance is a condition of release; and

(h) Any other conditions required by the court.

(3) The department, supervisory authority or anyone employed by or acting on behalf of the department or supervisory authority who sends records under this section is not civilly or criminally liable for failing to disclose the information under this section.

(4) As used in this section, "school administrator" has the meaning given that term in ORS 419A.305. [1999 c.620 §5; 2008 c.50 §6; 2009 c.447 §5]

339.323 Disclosure of information regarding person charged with or convicted of crime or regarding release or discharge of person; immunity. (1) When a school administrator as defined in ORS 419A.305 receives notice under ORS 339.317, 339.319, 339.321, 419A.015, 420.048 or 420A.122, the school administrator may disclose the information only to school personnel, as defined in ORS 339.326, who the school administrator determines need the information in order to safeguard the safety and security of the school, students and staff.

A person to whom personally identifiable information is disclosed under this subsection may not disclose the information to another

person except to carry out the provisions of this subsection.

(2) A school administrator or anyone employed by or acting on behalf of a school administrator who receives notice under ORS 339.317, 339.319, 339.321 or 420A.122 is not civilly or criminally liable for failing to disclose the information. [1999 c.620 §6; 2008 c.50 §7; 2009 c.447 §6]

339.325 [1999 c.576 §2; repealed by 2005 c.209 §40]

339.326 Actions after receipt of notice under ORS 419A.305; transfers from outside state; enrollment in other school or program; confidentiality of information; use of information; immunity. (1) As used in this section:

(a) "School administrator" has the meaning given that term in ORS 419A.305.

(b) "School personnel" means a person who is employed by or under contract with a school district, public charter school or private school to provide services to students, including but not limited to:

- (A) Teachers and school staff.
- (B) Transportation providers.
- (C) Food service workers.
- (D) Daytime building maintenance workers.
- (E) Health center workers or nurses.
- (F) Library personnel.
- (G) Translators.

(2) Within 48 hours after receiving notice under ORS 419A.305, a school administrator shall notify school personnel who the school administrator determines need the information in order to:

(a) Safeguard the safety and security of the school, students and school personnel;

(b) Arrange appropriate counseling or education for the person who is the subject of the notice; or

(c) If the notice states that the court has set aside or dismissed the petition, or that the court has determined it does not have jurisdiction over the person who is the subject of the notice, inform school personnel previously notified of the petition under this subsection that the court has set aside or dismissed the petition or determined that the person who is the subject of the notice is not within the jurisdiction of the juvenile court and direct the appropriate school personnel to remove and destroy the notice and any documents or information related to the notice from the person's educational records.

(3) When a student transfers to a school in this state from a school outside the state, the school administrator of the school in this state shall, when requesting the transfer

student's education records as provided under ORS 326.575, request any information that the transfer student's former school may have relating to the transfer student's history of engaging in activity that is likely to place at risk the safety of school personnel or students or that requires arrangement of appropriate counseling or education for the transfer student. Upon receipt of information that the transfer student has a history of engaging in activity that is likely to place at risk the safety of school personnel or students, the school administrator shall notify school personnel who the school administrator determines need the information in order to:

(a) Safeguard the safety and security of the school, students and school personnel; or

(b) Arrange appropriate counseling or education for the transfer student.

(4) When a school administrator receives notice under ORS 419A.305 and determines that the youth is not enrolled in the school administrator's school but is enrolled in a school or program referred to in this subsection, the school administrator shall, within 48 hours of receiving notice, send a copy of the notice to:

(a) The director of the Oregon School for the Deaf if the youth attends the Oregon School for the Deaf.

(b) The director of the Oregon School for the Blind if the youth attends the Oregon School for the Blind.

(c) The Superintendent of Public Instruction if the youth is in an educational program under the Youth Corrections Education Program.

(d) The principal of the public charter school if the youth attends a public charter school.

(e) The principal of the private school if the youth attends a private school.

(f) The appropriate school administrator if the youth attends a school in another school district.

(5) A school district, public charter school or private school may adopt policies and procedures for providing notification to school personnel under this section.

(6)(a) Except as provided in this section, information contained in a notice required under ORS 419A.305 or obtained from an out-of-state school under subsection (3) of this section is confidential.

(b) Persons receiving information contained in a notice required under ORS 419A.305 or obtained from an out-of-state school under subsection (3) of this section may not disclose any information received with anyone other than:

(A) The person who is the subject of the notice or the transfer student;

(B) The parent or guardian of the person who is the subject of the notice or the transfer student;

(C) A school administrator;

(D) School personnel notified under subsection (2) or (3) of this section;

(E) Law enforcement personnel;

(F) The probation officer or juvenile counselor of the person who is the subject of the notice or the transfer student; and

(G) The attorney for the person who is the subject of the notice or the transfer student.

(c) School personnel are not subject to discipline for disclosing the existence of a notice under ORS 419A.305 or for disclosing the contents of the notice, unless the disclosure was made in bad faith, with malicious intent or in a manner exhibiting a willful, wanton disregard of the rights, safety or property of another.

(7)(a) Information obtained under this section or under ORS 419A.305 may not be used for admissions or disciplinary decisions concerning the person who is the subject of a notice or the transfer student unless the violation occurred in the school or classroom or at a school activity or event, whether or not the violation took place on school property.

(b) Notwithstanding paragraph (a) of this subsection, information obtained under this section or under ORS 419A.305 may be used for making an educational placement for the person who is the subject of a notice or the transfer student, if necessary for arranging appropriate counseling or education for the person or transfer student. Placement procedures and decisions under this section regarding a person or transfer student who is receiving special education and related services must comply with the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq.

(c) The receipt of a notice under ORS 419A.305 does not deprive the school of the authority to institute or continue a disciplinary action against the person who is the subject of the notice or the transfer student based on the same conduct alleged in the notice if the disciplinary proceedings are based on information obtained by the school or school district that is not derived from the notice.

(8) A person is not civilly or criminally liable for giving or failing to give the notice required under this section. Nothing in this section creates a new cause of action or en-

larges an existing cause of action for compensation or damages. [2008 c.50 §3; 2009 c.447 §2]

Note: The Oregon School for the Blind was closed in 2009, pursuant to section 1, chapter 562, Oregon Laws 2009. The text of 339.326 was not amended by enactment of the Legislative Assembly to reflect the school's closure. Editorial adjustment of 339.326 for the school's closure has not been made.

339.327 Notification required if person possesses threatening list or when threats of violence or harm made; immunity. (1) A superintendent of a school district or a superintendent's designee who has reasonable cause to believe that a person, while in a school, is or has been in possession of a list that threatens harm to other persons, shall notify:

(a) The parent or guardian of any student whose name appears on the list as a target of the harm; and

(b) Any teacher or school employee whose name appears on the list as a target of the harm.

(2) A superintendent or superintendent's designee who has reasonable cause to believe that a student, while in a school, has made threats of violence or harm to another student shall notify the parent or guardian of the threatened student.

(3) The superintendent or superintendent's designee shall attempt to notify the persons specified in subsections (1) and (2) of this section by telephone or in person promptly but not later than 12 hours after discovering the list or learning of the threat. The superintendent or superintendent's designee shall follow up the notice with a written notification sent within 24 hours after discovering the list or learning of the threat.

(4) Any school district or person participating in good faith in making the notification required by this section is immune from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of the notification.

(5) As used in this section, "school" has the meaning given that term in ORS 339.315. [1999 c.577 §13; 2005 c.209 §31]

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

(Center for School Safety)

339.331 Mission; duties; annual report; staff; funding. (1) There is created the Center for School Safety within the Oregon University System. The mission of the center shall be to:

(a) Serve as the central point for data analysis;

(b) Conduct research;

(c) Disseminate information about successful school safety programs, research results and new programs; and

(d) Provide technical assistance for improving the safety of schools in collaboration with the Department of Education and others.

(2) To fulfill its mission, the Center for School Safety shall:

(a) Establish a clearinghouse for information and materials concerning school violence prevention and intervention services. As used in this paragraph, "intervention services" means any preventive, developmental, corrective or supportive service or treatment provided to a student who is at risk of school failure, is at risk of participation in violent behavior or juvenile crime or has been expelled from the school district. "Intervention services" may include, but is not limited to:

(A) Screening to identify students at risk for emotional disabilities or antisocial behavior;

(B) Direct instruction in academic, social, problem-solving and conflict resolution skills;

(C) Alternative education programs;

(D) Psychological services;

(E) Identification and assessment of abilities;

(F) Counseling services;

(G) Medical services;

(H) Day treatment;

(I) Family services; and

(J) Work and community service programs.

(b) Provide program development and implementation expertise and technical support to schools, law enforcement agencies and communities. The expertise and support may include coordinating training for administrators, teachers, students, parents and other community representatives.

(c) Analyze the data collected in compliance with section 5, chapter 618, Oregon Laws 2001.

(d) Research and evaluate school safety programs so schools and communities are better able to address their specific needs.

(e) Promote interagency efforts to address discipline and safety issues within communities throughout the state.

(f) Prepare and disseminate information regarding the best practices in creating safe and effective schools.

(g) Advise the State Board of Education on rules and policies.

(h) Provide an annual report on the status of school safety in Oregon by July 1 of each year to:

(A) The Governor;

(B) The Attorney General;

(C) The State Board of Education; and

(D) All relevant legislative committees.

(3) The University of Oregon Institute on Violence and Destructive Behavior shall provide staff support to the Center for School Safety board of directors and shall manage the center.

(4) The Center for School Safety board of directors may seek and accept public and private funds for the center. [2001 c.618 §1; 2009 c.762 §57]

339.333 Board of directors. (1) The Center for School Safety shall be governed by a board of directors. The board of directors shall consist of:

(a) The Superintendent of Public Instruction or a designee of the superintendent;

(b) The Director of the Oregon Youth Authority or a designee of the director;

(c) The Attorney General or a designee of the Attorney General;

(d) The Superintendent of State Police or a designee of the superintendent;

(e) The Director of Human Services or a designee of the director;

(f) The Director of the Oregon Health Authority or a designee of the director;

(g) Nine members appointed by the Governor, as follows:

(A) One member representing the Oregon School Boards Association;

(B) One member representing the Confederation of Oregon School Administrators;

(C) One member representing the Oregon Education Association;

(D) One member representing the Oregon School Employees Association;

(E) One member representing the Oregon State Sheriffs' Association;

(F) One member representing the Oregon Association Chiefs of Police;

(G) One member representing the Oregon District Attorneys Association;

(H) One member representing the National Resource Center for Safe Schools on the Northwest Regional Educational Laboratory; and

(I) One member representing the Oregon School Safety Officers Association; and

(h) Other members that the board may appoint.

(2) When making appointments to the board of directors, the Governor shall solicit recommendations from professional organizations that represent school employees, school district boards, school administrators and other education providers.

(3) The term of office of each board member appointed by the Governor is two years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a board member, the Governor shall appoint a successor. A board member is eligible for reappointment but shall not serve for more than two consecutive terms. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(4) A member of the board of directors is entitled to compensation and expenses as provided in ORS 292.495.

(5) The board of directors shall meet a minimum of four times per year.

(6) The board of directors shall annually elect a chairperson and vice chairperson from the membership. The board of directors may form committees as needed. [2001 c.618 §2; 2003 c.791 §29; 2009 c.595 §212]

339.336 Funding; Center for School Safety Account. (1) The Oregon University System may seek and accept contributions of funds and assistance from the United States, its agencies or from any other source, public or private, and agree to conditions thereon not inconsistent with ORS 339.331, 339.333 and 339.339. All such funds are to aid in financing the functions of the Center for School Safety and shall be deposited in the Center for School Safety Account and shall be disbursed for the purpose for which contributed.

(2) The Center for School Safety Account is established in the General Fund of the State Treasury. Except for moneys otherwise designated by statute, all federal funds or other moneys received by the Oregon University System for the center shall be paid into the State Treasury and credited to the account. All moneys in the account are appropriated continuously to the Oregon University System and shall be used by the system for the purposes of carrying out ORS 339.331, 339.333 and 339.339. [2001 c.618 §8; 2009 c.762 §58]

339.339 Collaboration between center and Department of Education. The Department of Education, in collaboration with the Center for School Safety, shall:

(1) Develop recommendations and state-wide guidelines designed to improve the learning environment and student achievement and to reduce the dropout rate in the state's public schools.

(2) Identify successful strategies that are used in Oregon and other states to improve the learning environment and student achievement and to reduce the dropout rate.

(3) Provide technical assistance to those school districts requesting assistance in reducing the dropout rate. [2001 c.618 §6]

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

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

(Harassment, Intimidation and Bullying)

339.351 Definitions for ORS 339.351 to 339.364. As used in ORS 339.351 to 339.364:

(1) "Cyberbullying" means the use of any electronic communication device to harass, intimidate or bully.

(2) "Harassment, intimidation or bullying" means any act that:

(a) Substantially interferes with a student's educational benefits, opportunities or performance;

(b) Takes place on or immediately adjacent to school grounds, at any school-sponsored activity, on school-provided transportation or at any official school bus stop;

(c) Has the effect of:

(A) Physically harming a student or damaging a student's property;

(B) Knowingly placing a student in reasonable fear of physical harm to the student or damage to the student's property; or

(C) Creating a hostile educational environment, including interfering with the psychological well-being of a student; and

(d) May be based on, but not be limited to, the protected class status of a person.

(3) "Protected class" means a group of persons distinguished, or perceived to be distinguished, by race, color, religion, sex, sexual orientation, national origin, marital status, familial status, source of income or disability. [2001 c.617 §2; 2007 c.647 §1; 2009 c.249 §1]

339.353 Findings. (1) The Legislative Assembly finds that:

(a) A safe and civil environment is necessary for students to learn and achieve high academic standards.

(b) Harassment, intimidation or bullying and cyberbullying, like other disruptive or violent behavior, are conduct that disrupts a student's ability to learn and a school's ability to educate its students in a safe environment.

(c) Students learn by example.

(2) The Legislative Assembly commends school administrators, faculty, staff and volunteers for demonstrating appropriate behavior, treating others with civility and respect,

refusing to tolerate harassment, intimidation or bullying and refusing to tolerate cyberbullying. [2001 c.617 §1; 2005 c.209 §32; 2007 c.647 §2]

339.356 District policy required. (1)

Each school district shall adopt a policy prohibiting harassment, intimidation or bullying and prohibiting cyberbullying. School districts are encouraged to develop the policy after consultation with parents, guardians, school employees, volunteers, students, administrators and community representatives.

(2) School districts must include in the policy:

(a) A statement prohibiting harassment, intimidation or bullying and prohibiting cyberbullying.

(b) Definitions of “harassment,” “intimidation” or “bullying” and of “cyberbullying” that are consistent with ORS 339.351.

(c) Definitions of “protected class” that are consistent with ORS 174.100 and 339.351.

(d) A statement of the scope of the policy, including a notice that the policy applies to behavior at school-sponsored activities, on school-provided transportation and at any official school bus stop.

(e) A description of the type of behavior expected from each student.

(f) A statement of the consequences and appropriate remedial action for a person who commits an act of harassment, intimidation or bullying or an act of cyberbullying.

(g) A procedure that is uniform throughout the school district for reporting an act of harassment, intimidation or bullying or an act of cyberbullying. A procedure established under this paragraph shall identify by job title the school officials responsible for receiving such a report at a school and shall allow a person to report an act of harassment, intimidation or bullying or an act of cyberbullying anonymously. Nothing in this paragraph may be construed to permit formal disciplinary action solely on the basis of an anonymous report.

(h) A procedure that is uniform throughout the school district for prompt investigation of a report of an act of harassment, intimidation or bullying or an act of cyberbullying. A procedure established under this paragraph shall identify by job title the school officials responsible for investigating such a report.

(i) A procedure by which a person may request a school district to review the actions of a school in responding to a report of an act of harassment, intimidation or bullying or an act of cyberbullying or investigating such a report.

(j) A statement of the manner in which a school and a school district will respond after an act of harassment, intimidation or bullying or an act of cyberbullying is reported, investigated and confirmed.

(k) A statement of the consequences and appropriate remedial action for a person found to have committed an act of harassment, intimidation or bullying or an act of cyberbullying.

(L) A statement prohibiting reprisal or retaliation against any person who reports an act of harassment, intimidation or bullying or an act of cyberbullying and stating the consequences and appropriate remedial action for a person who engages in such reprisal or retaliation.

(m) A statement of the consequences and appropriate remedial action for a person found to have falsely accused another of having committed an act of harassment, intimidation or bullying or an act of cyberbullying as a means of reprisal or retaliation, as a means of harassment, intimidation or bullying or as a means of cyberbullying.

(n) A statement of how the policy is to be publicized within the district. At a minimum, a school district shall make the policy:

(A) Annually available to parents, guardians, school employees and students in a student or employee handbook; and

(B) Readily available to parents, guardians, school employees, volunteers, students, administrators and community representatives at each school office or at the school district office and, if available, on the website for a school or the school district.

(o) The identification by job title of school officials and school district officials responsible for ensuring that policy is implemented.

(3) A school district that does not comply with the requirements of this section is considered nonstandard under ORS 327.103. [2001 c.617 §3; 2007 c.647 §3; 2009 c.249 §2]

339.359 Training programs; prevention task forces, programs and other initiatives.

(1) School districts are encouraged to incorporate into existing training programs for students and school employees information related to the prevention of, and the appropriate response to, acts of harassment, intimidation and bullying and acts of cyberbullying.

(2) School districts are encouraged to form task forces and to implement programs and other initiatives that are aimed at the prevention of, and the appropriate response to, acts of harassment, intimidation or bullying and acts of cyberbullying and that

involve school employees, students, administrators, volunteers, parents, guardians, law enforcement and community representatives. [2001 c.617 §6; 2007 c.647 §4; 2009 c.249 §3]

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

339.362 Retaliation against victims and witnesses prohibited; school employee immunity. (1) A school employee, student or volunteer may not engage in reprisal or retaliation against a victim of, witness to or person with reliable information about an act of harassment, intimidation or bullying or an act of cyberbullying.

(2) A school employee, student or volunteer who witnesses or has reliable information that a student has been subjected to an act of harassment, intimidation or bullying or an act of cyberbullying is encouraged to report the act to the appropriate school official designated by the school district's policy.

(3) A school employee who promptly reports an act of harassment, intimidation or bullying or an act of cyberbullying to the appropriate school official in compliance with the procedures set forth in the school district's policy is immune from a cause of action for damages arising from any failure to remedy the reported act. [2001 c.617 §5; 2007 c.647 §5]

339.364 Victim may seek redress under other laws. ORS 339.351 to 339.364 may not be interpreted to prevent a victim of harassment, intimidation or bullying or a victim of cyberbullying from seeking redress under any other available law, whether civil or criminal. ORS 339.351 to 339.364 do not create any statutory cause of action. [2001 c.617 §7; 2007 c.647 §6]

(Child Abuse and Sexual Conduct)

339.370 Definitions for ORS 339.370 to 339.400. As used in ORS 339.370 to 339.400:

(1) "Abuse" has the meaning given that term in ORS 419B.005.

(2) "Disciplinary records" means the records related to a personnel discipline action or materials or documents supporting that action.

(3) "Education provider" means:

(a) A school district, as defined in ORS 332.002.

(b) The Oregon School for the Deaf.

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

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

(e) An education service district, as defined in ORS 334.003.

(f) Any state-operated program that provides educational services to kindergarten through grade 12 students.

(g) A private school.

(4) "Investigation" means a detailed inquiry into the factual allegations of a report of suspected child abuse or sexual conduct that:

(a) Is based on interviews with the complainant, witnesses and the school employee who is the subject of the report; and

(b) Meets any negotiated standards of an employment contract or agreement.

(5) "Law enforcement agency" has the meaning given that term in ORS 419B.005.

(6) "Private school" means a school that provides educational services, as defined in ORS 345.505, to kindergarten through grade 12 students.

(7) "School board" means the governing board or governing body of an education provider.

(8) "School employee" means an employee of an education provider.

(9)(a) "Sexual conduct" means any verbal or physical conduct by a school employee that:

(A) Is sexual in nature;

(B) Is directed toward a kindergarten through grade 12 student;

(C) Has the effect of unreasonably interfering with a student's educational performance; and

(D) Creates an intimidating, hostile or offensive educational environment.

(b) "Sexual conduct" does not include abuse.

(10) "Substantiated report" means a report of child abuse or sexual conduct that:

(a) An education provider has reasonable cause to believe is founded based on the available evidence after conducting an investigation; and

(b) Involves conduct that the education provider determines is sufficiently serious to be documented in the school employee's personnel file. [2005 c.367 §1; 2007 c.501 §1; 2007 c.858 §68; 2009 c.93 §1; 2009 c.562 §22]

Note: The amendments to 339.370 by section 1, chapter 93, Oregon Laws 2009, take effect July 1, 2010. See section 13, chapter 93, Oregon Laws 2009. The text that is effective until July 1, 2010, including amendments by section 22, chapter 562, Oregon Laws 2009, is set forth for the user's convenience.

339.370. As used in this section and ORS 339.372, 339.388 and 339.400:

(1) "Abuse" has the meaning given that term in ORS 419B.005.

(2) "Disciplinary records" means the records related to a personnel discipline action or materials or documents supporting that action.

- (3) "Education provider" means:
- (a) A school district as defined in ORS 332.002.
 - (b) The Oregon School for the Deaf.
 - (c) An educational program under the Youth Corrections Education Program.
 - (d) A public charter school as defined in ORS 338.005.
 - (e) An education service district as defined in ORS 334.003.
 - (f) Any state-operated program that provides educational services to kindergarten through grade 12 students.
 - (g) A private school.
- (4) "Law enforcement agency" has the meaning given that term in ORS 419B.005.
- (5) "Private school" means a school that provides educational services as defined in ORS 345.505 to kindergarten through grade 12 students.
- (6) "School board" means the governing board or governing body of an education provider.
- (7) "School employee" means an employee of an education provider.

339.372 Policies of school boards on reporting of child abuse and sexual conduct. Each school board shall adopt policies on the reporting of child abuse and sexual conduct by school employees. The policies shall:

- (1) Specify that child abuse and sexual conduct by school employees are not tolerated;
- (2) Specify that all school employees are subject to the policies;
- (3) Require all school employees who have reasonable cause to believe that another school employee has engaged in child abuse or sexual conduct to:
 - (a) Report suspected child abuse to a law enforcement agency, the Department of Human Services or a designee of the department as required by ORS 419B.010 and 419B.015; and
 - (b) Report suspected child abuse or sexual conduct to the employees' supervisors or other persons designated by the school board;
- (4) Designate a person to receive reports of suspected child abuse or sexual conduct by school employees and specify the procedures to be followed by that person upon receipt of a report;
- (5) Require the posting in each school building of the name and contact information for the person designated for the school building to receive reports of suspected child abuse or sexual conduct by school employees and the procedures the person will follow upon receipt of a report;
- (6) Specify that the initiation of a report in good faith about suspected child abuse or sexual conduct may not adversely affect any terms or conditions of employment or the work environment of the complainant;

(7) Specify that the school board or any school employee will not discipline a student for the initiation of a report in good faith about suspected child abuse or sexual conduct by a school employee;

(8) Require notification by the education provider to the person who initiated the report about actions taken by the education provider based on the report; and

(9) Require the education provider to furnish to a school employee at the time of hire the following:

(a) A description of conduct that may constitute child abuse or sexual conduct; and

(b) A description of the information and records that will be disclosed as provided by ORS 339.378 or 339.388 (7) if a report of suspected child abuse or sexual conduct is substantiated. [2005 c.367 §2; 2009 c.93 §2]

Note: The amendments to 339.372 by section 2, chapter 93, Oregon Laws 2009, take effect July 1, 2010. See section 13, chapter 93, Oregon Laws 2009. The text that is effective until July 1, 2010, is set forth for the user's convenience.

339.372. Each school board shall adopt policies on the reporting of child abuse. The policies shall:

- (1) Specify that child abuse by school employees is not tolerated;
- (2) Specify that all school employees are subject to the policies;
- (3) Require that all school employees report suspected child abuse to a law enforcement agency, the Department of Human Services or a designee of the department as required by ORS 419B.010 and 419B.015 and report suspected child abuse to the employees' supervisors or other persons designated by the school board;
- (4) Designate a person to receive reports of suspected child abuse by school employees and specify the procedures to be followed by that person upon receipt of a report;
- (5) Require the posting in each school building of the name and contact information for the person designated for the school building to receive reports of suspected child abuse by school employees and the procedures the person will follow upon receipt of a report;
- (6) Specify that the initiation of a report in good faith about suspected child abuse may not adversely affect any terms or conditions of employment or the work environment of the complainant;
- (7) Specify that the school board or any school employee will not discipline a student for the initiation of a report in good faith about suspected child abuse by a school employee; and
- (8) Require notification by the education provider to the person who initiated the report about actions taken by the education provider based on the report.

Note: Section 3, chapter 93, Oregon Laws 2009, provides:

Sec. 3. Notwithstanding ORS 339.372 (9), the information required to be furnished to school employees under ORS 339.372 (9) must be provided to all school employees in this state within 30 days of the effective date of this 2009 Act [July 1, 2010]. [2009 c.93 §3]

339.374 Required background checks by education provider of applicant for position with education provider. Except

as provided in ORS 339.384, before an education provider may hire an applicant for a position with the education provider, the education provider shall:

(1) Require the applicant to provide:

(a) A list of the applicant's current and former employers who are education providers.

(b) A written authorization that authorizes the applicant's current and former employers that are education providers to disclose the information requested under subsection (2) of this section.

(c) A written statement of whether the applicant:

(A) Has been the subject of a substantiated report of child abuse or sexual conduct; or

(B) Is the subject of an ongoing investigation related to a report of suspected child abuse or sexual conduct.

(2) Conduct a review of the employment history of the applicant by contacting the three most recent employers of the applicant who are education providers and requesting:

(a) The following information:

(A) The dates of employment of the applicant by the education provider;

(B) Whether the applicant was the subject of any substantiated reports of child abuse or sexual conduct related to the applicant's employment with the education provider;

(C) The dates of any substantiated reports;

(D) The definitions of child abuse and sexual conduct used by the education provider when the education provider determined that any reports were substantiated; and

(E) The standards used by the education provider to determine whether any reports were substantiated.

(b) Any disciplinary records required to be released as provided by ORS 339.388 (7).

(3) For an applicant who is licensed, registered or certified with the Teacher Standards and Practices Commission, access online information provided by the commission to verify:

(a) That the applicant is licensed, registered or certified by the commission; and

(b) Whether the commission has provided any information relating to conduct by the applicant that may constitute child abuse or sexual conduct.

(4) Conduct a nationwide criminal records check if required by ORS 326.603. [2009 c.93 §7]

Note: 339.374 takes effect July 1, 2010. See section 13, chapter 93, Oregon Laws 2009.

339.375 [2005 c.367 §3; 2007 c.233 §1; 2009 c.93 §4; renumbered 339.388 in 2009]

339.377 [2007 c.501 §2; 2009 c.93 §5; renumbered 339.400 in 2009]

339.378 Disclosure of information and records by education provider; confidentiality. (1) Not later than 20 days after receiving a request under ORS 339.374, an education provider that has or has had an employment relationship with the applicant shall disclose the information requested and any disciplinary records that must be disclosed as provided by ORS 339.388 (7).

(2) An education provider may disclose the information on a standardized form and is not required to provide any additional information related to a substantiated report of child abuse or sexual conduct other than the information that is required by ORS 339.374 (2).

(3) Information received under this section is confidential and is not a public record as defined in ORS 192.410. An education provider may use the information only for the purpose of evaluating an applicant's eligibility to be hired. [2009 c.93 §8]

Note: 339.378 takes effect July 1, 2010. See section 13, chapter 93, Oregon Laws 2009.

339.384 Prohibitions and allowances related to hiring of applicant. (1) An education provider may not hire an applicant who does not comply with the requirements of ORS 339.374 (1). A refusal to hire an applicant under this subsection removes the applicant from any education provider policies, any collective bargaining provisions regarding dismissal procedures and appeals and any provisions of ORS 342.805 to 342.937.

(2) An education provider may hire an applicant on a conditional basis pending the education provider's review of information and records received under ORS 339.378.

(3) An education provider may not deny an applicant employment solely because:

(a) A current or former employer of an applicant fails or refuses to comply with the requirements of ORS 339.378; or

(b) The applicant has or had an out-of-state employer and the laws or rules of that state prevent the release of information or records requested under ORS 339.378. [2009 c.93 §9]

Note: 339.384 takes effect July 1, 2010. See section 13, chapter 93, Oregon Laws 2009.

339.388 Report of child abuse or sexual conduct; investigation; appeal process; disclosure of records. (1)(a) A school employee having reasonable cause to believe that a child with whom the employee comes in contact has suffered abuse by another

school employee, or that another school employee with whom the employee comes in contact has abused a child, shall immediately report the information to:

(A) A supervisor or other person designated by the school board; and

(B) A law enforcement agency, the Department of Human Services or a designee of the department as required by ORS 419B.010 and 419B.015.

(b) A school employee having reasonable cause to believe that a student with whom the employee comes in contact has been subjected to sexual conduct by another school employee, or that another school employee with whom the employee comes in contact has engaged in sexual conduct, shall immediately report the information to a supervisor or other person designated by the school board.

(2) A supervisor or other person designated by the school board who receives a report under subsection (1) of this section, shall follow the procedures required by the policy adopted by the school board under ORS 339.372.

(3)(a) Except as provided in subsection (4) of this section, when an education provider receives a report of suspected child abuse or sexual conduct by one of its employees, and the education provider's designee determines that there is reasonable cause to support the report, the education provider:

(A) In the case of suspected child abuse, shall place the school employee on paid administrative leave; or

(B) In the case of suspected sexual conduct, may place the school employee on paid administrative leave or in a position that does not involve direct, unsupervised contact with children.

(b) A school employee who is placed on paid administrative leave under paragraph (a)(A) of this subsection shall remain on administrative leave until:

(A) The Department of Human Services or a law enforcement agency determines that the report cannot be substantiated or that the report will not be pursued; or

(B) The Department of Human Services or a law enforcement agency determines that the report is substantiated and the education provider takes the appropriate disciplinary action against the school employee.

(4) An education provider may reinstate a school employee placed on paid administrative leave for suspected child abuse as provided under subsection (3) of this section or may take the appropriate disciplinary action against the employee if the Department of Human Services or a law enforcement

agency is unable to determine, based on a report of suspected child abuse, whether child abuse occurred.

(5) If, following an investigation, an education provider determines that the report of suspected child abuse or sexual conduct is a substantiated report, the education provider shall:

(a) Inform the school employee that the education provider has determined that the report has been substantiated.

(b) Provide the school employee with information about the appropriate appeal process for the determination made by the education provider. The appeal process may be the process provided by a collective bargaining agreement or a process administered by a neutral third party and paid for by the school district.

(c) Following notice of a school employee's decision not to appeal the determination or following the determination of an appeal that sustained the substantiated report, create a record of the substantiated report and place the record in the personnel file of the school employee. Records created pursuant to this paragraph are confidential and are not public records as defined in ORS 192.410. An education provider may use the record as a basis for providing the information required to be disclosed under ORS 339.378.

(d) Inform the school employee that information about substantiated reports may be disclosed to a potential employer as provided by subsection (7) of this section and ORS 339.378.

(6) Upon request from a law enforcement agency, the Department of Human Services or the Teacher Standards and Practices Commission, a school district shall provide the records of investigations of suspected child abuse by a school employee or former school employee.

(7)(a) The disciplinary records of a school employee or former school employee convicted of a crime listed in ORS 342.143 are not exempt from disclosure under ORS 192.501 or 192.502.

(b) If a school employee is convicted of a crime listed in ORS 342.143, the education provider that is the employer of the employee shall disclose the disciplinary records of the employee to any person upon request.

(c) If a former school employee is convicted of a crime listed in ORS 342.143, the education provider that was the employer of the former employee when the crime was committed shall disclose the disciplinary records of the former employee to any person upon request.

(8) Prior to disclosure of a disciplinary record under subsection (7) of this section, an education provider shall remove any personally identifiable information from the record that would disclose the identity of a child, a crime victim or a school employee or former school employee who is not the subject of the disciplinary record. [Formerly 339.375]

Note: The amendments to 339.388 (formerly 339.375) by section 4, chapter 93, Oregon Laws 2009, take effect July 1, 2010. See section 13, chapter 93, Oregon Laws 2009. The text that is effective until July 1, 2010, is set forth for the user's convenience.

339.388. (1) Any school employee having reasonable cause to believe that any child with whom the employee comes in contact has suffered abuse by another school employee, or that another school employee with whom the employee comes in contact has abused a child, shall immediately report the information to:

(a) A supervisor or other person designated by the school board; and

(b) A law enforcement agency, the Department of Human Services or a designee of the department as required by ORS 419B.010 and 419B.015.

(2) A supervisor or other person designated by the school board who receives a report under subsection (1) of this section, shall follow the procedures required by the policy adopted by the school board under ORS 339.372.

(3) Except as provided in subsection (4) of this section, when an education provider receives a report of suspected child abuse by one of its employees, and the education provider's designee determines that there is reasonable cause to support the report, the education provider shall place the school employee on paid administrative leave until either:

(a) The Department of Human Services or a law enforcement agency determines that the report is unfounded or that the report will not be pursued; or

(b) The Department of Human Services or a law enforcement agency determines that the report is founded and the education provider takes the appropriate disciplinary action against the school employee.

(4) If the Department of Human Services or a law enforcement agency is unable to determine, based on a report of suspected child abuse, whether child abuse occurred, an education provider may reinstate a school employee placed on paid administrative leave under subsection (3) of this section or may take the appropriate disciplinary action against the employee.

(5) Upon request from a law enforcement agency, the Department of Human Services or the Teacher Standards and Practices Commission, a school district shall provide the records of investigations of suspected child abuse by a school employee or former school employee.

(6) The disciplinary records of a school employee or former school employee convicted of a crime listed in ORS 342.143 are not exempt from disclosure under ORS 192.501 or 192.502. If a school employee is convicted of a crime listed in ORS 342.143, the education provider that is the employer of the employee shall disclose the disciplinary records of the employee to any person upon request. If a former school employee is convicted of a crime listed in ORS 342.143, the education provider that was the employer of the former employee when the crime was committed shall disclose the disciplinary records of the former employee to any person upon request.

(7) Prior to disclosure of a disciplinary record under subsection (6) of this section, an education provider shall remove any personally identifiable information

from the record that would disclose the identity of a child, a crime victim or a school employee or former school employee who is not the subject of the disciplinary record.

339.392 Prohibitions against certain agreements and contracts. (1) An education provider may not enter into a collective bargaining agreement, an employment contract, an agreement for resignation or termination, a severance agreement or any other contract or agreement that:

(a) Has the effect of suppressing information relating to an ongoing investigation related to a report of suspected child abuse or sexual conduct or relating to a substantiated report of child abuse or sexual conduct by a current or former employee;

(b) Affects the duties of the education provider to report suspected child abuse or sexual conduct or to discipline a current or former employee for a substantiated report of child abuse or sexual conduct;

(c) Impairs the ability of the education provider to discipline an employee for a substantiated report of child abuse or sexual conduct; or

(d) Requires the education provider to expunge substantiated information about child abuse or sexual conduct from any documents maintained by an education provider.

(2) Any provision of an employment contract or agreement that is contrary to this section is void and unenforceable.

(3) Nothing in this section prevents an education provider from entering into a collective bargaining agreement that includes:

(a) Standards for investigation of a report of child abuse or sexual conduct; or

(b) An appeal process from the determination by an education provider that a report of child abuse or sexual conduct has been substantiated as provided in ORS 339.388 (5). [2009 c.93 §10]

Note: 339.392 takes effect July 1, 2010. See section 13, chapter 93, Oregon Laws 2009.

Note: Section 12, chapter 93, Oregon Laws 2009, provides:

Sec. 12. Section 10 of this 2009 Act [339.392] applies to agreements or contracts specified in section 10 of this 2009 Act that are entered into or renewed on or after the effective date of this 2009 Act [July 1, 2010]. [2009 c.93 §12]

339.396 Effect on causes of action. Nothing in ORS 339.370 to 339.400 creates a new public or private cause of action or precludes an existing cause of action. [2009 c.93 §11]

Note: 339.396 takes effect July 1, 2010. See section 13, chapter 93, Oregon Laws 2009.

339.400 Training on prevention and identification. (1) An education provider shall provide to school employees training each school year on the prevention and

identification of child abuse and sexual conduct and on the obligations of school employees under ORS 419B.005 to 419B.050 and under policies adopted by the school board to report child abuse and sexual conduct.

(2) An education provider shall make the training provided under subsection (1) of this section available each school year to parents and legal guardians of children who attend a school operated by the education provider. The training shall be provided separately from the training provided to school employees under subsection (1) of this section.

(3) An education provider shall make training that is designed to prevent child abuse and sexual conduct available each school year to children who attend a school operated by the education provider. [Formerly 339.377]

Note: The amendments to 339.400 (formerly 339.377) by section 5, chapter 93, Oregon Laws 2009, take effect July 1, 2010. See section 13, chapter 93, Oregon Laws 2009. The text that is effective until July 1, 2010, is set forth for the user's convenience.

339.400. (1) An education provider shall provide to school employees training each school year on the prevention and identification of child abuse and on the obligations of school employees under ORS 419B.005 to 419B.050 and under policies adopted by the school board to report child abuse.

(2) An education provider shall make the training provided under subsection (1) of this section available each school year to parents and legal guardians of children who attend a school operated by the education provider. The training shall be provided separately from the training provided to school employees under subsection (1) of this section.

(3) An education provider shall make training that is designed to prevent child abuse available each school year to children who attend a school operated by the education provider.

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

RELIGIOUS INSTRUCTION

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

INTERSCHOLASTIC ACTIVITIES

339.430 Approval of voluntary organizations to administer interscholastic activities required; rule review; suspension or revocation of approval; appeal of organization's ruling. (1) Voluntary organizations that desire to administer interscholastic activities shall apply to the State Board of Education for approval.

(2) The board shall review the rules and bylaws of the voluntary organization to determine that the rules and bylaws do not conflict with state law or rules of the board.

(3) A voluntary organization must submit to the board for review any rules, or changes in rules, that specify the criteria for the placement of a school into an interscholastic activity district. A voluntary organization may not establish or change an interscholastic activity district until the board has approved the rules of the voluntary organization.

(4) If a voluntary organization meets the standards established under ORS 326.051 and its rules and bylaws do not conflict with state law or rules of the board, the board shall approve the organization. An approved voluntary organization is qualified to administer interscholastic activities.

(5) The board may suspend or revoke its approval if an approved organization is found to have violated state law, rules of the board or subsection (3) of this section. If a voluntary organization is not approved or its approval is suspended or revoked, it may appeal the denial, suspension or revocation as a contested case under ORS chapter 183.

(6) A voluntary organization's decisions concerning interscholastic activities may be appealed to the board, which may hear the matter or by rule may delegate authority to a hearing officer to hold a hearing and enter a final order under ORS chapter 183. Such decisions may be appealed under ORS 183.482. [Formerly 326.058; 2001 c.104 §114; 2001 c.368 §1; 2003 c.184 §1]

339.450 Prohibited grounds for denying participation in interscholastic athletics.

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

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

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

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

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

(b)(A) The student must achieve a minimum score on an examination from the list adopted by the State Board of Education pursuant to ORS 339.035. The examination shall be taken at the end of each school year and shall be used to determine eligibility for the following year. The minimum, composite test score that a student must achieve shall place the student at or above the 23rd percentile based on national norms. The parent or legal guardian shall submit the examination results to the school district; or

(B) A school district may adopt alternative requirements, in consultation with the parent or legal guardian of a homeschooled student, that a student must meet to participate in interscholastic activities, including but not limited to a requirement that a student submit a portfolio of work samples to a school district committee for review to determine whether a student is eligible to participate in interscholastic activities.

(c) Any public school student who chooses to be homeschooled must also meet the minimum standards as described in paragraph (b) of this subsection. The student may participate while awaiting examination results.

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

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

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

(2) As used in this section:

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

(b) "Homeschooled students" are those children taught by private teachers, parents or legal guardians as described in ORS 339.030.

(c) "Interscholastic activities" includes but is not limited to athletics, music, speech, and other related activities. [1991 c.914 §§1,2; 1999 c.717 §2; 2003 c.14 §150]

STUDENT ACCOUNTING SYSTEM

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

(a) "Graduate" means an individual who has:

(A) Not reached 21 years of age or whose 21st birthday occurs during the current school year;

(B) Met all state requirements and local requirements for attendance, competence and units of credit for high school; and

(C) Received one of the following:

(i) A high school diploma issued by a school district or a public charter school.

(ii) A high school diploma issued by an authorized community college.

(iii) A modified diploma issued by a school district or a public charter school.

(iv) An extended diploma issued by a school district or a public charter school.

(v) An alternative certificate issued by a school district or a public charter school.

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

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

(B) Is not a high school graduate;

(C) Has not received a General Educational Development (GED) certificate; and

(D) Has withdrawn from school.

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

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

(B) A student who is deceased.

(C) A student who is participating in home instruction paid for by the district.

(D) A student who is being taught by a private teacher, parent or legal guardian pursuant to ORS 339.030 (1)(d) or (e).

(E) A student who is participating in a Department of Education approved public or private education program, an alternative education program as defined in ORS 336.615

or a hospital education program, or is residing in a Department of Human Services or an Oregon Health Authority facility.

(F) A student who is temporarily residing in a shelter care program certified by the Oregon Youth Authority or in a juvenile detention facility.

(G) A student who is enrolled in a foreign exchange program.

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

(I) A student who has received a General Educational Development (GED) certificate.

(2) The State Board of Education shall prescribe by rule when an unexplained absence becomes withdrawal, when a student is considered enrolled in school, acceptable alternative education programs under ORS 336.615 to 336.675 and the standards for excused absences for purposes of ORS 339.065 for family emergencies and health and medical problems. [1991 c.805 §4; 1993 c.676 §51; 1997 c.89 §1; 1997 c.249 §100; 1999 c.59 §87; 1999 c.717 §5; 2001 c.490 §9; 2003 c.14 §151; 2005 c.22 §234; 2007 c.407 §4; 2007 c.660 §19; 2007 c.858 §35; 2009 c.595 §213; 2009 c.618 §6]

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

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

(2) Providing reasons why students withdraw from school;

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

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

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

(2) The department shall provide training and technical assistance to school district personnel so that, statewide, the student ac-

counting system produces uniform and accurate reports. [1991 c.805 §2]

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

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

(2) Date of withdrawal;

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

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

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

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

(7) Information on why the student withdrew as such information relates to academics, conduct standards, interpersonal relationships, relation with school personnel, personal characteristics such as illness, lack of motivation, home and family characteristics, alternative education participation and employment information. [1991 c.805 §3; 1997 c.249 §101; 2005 c.209 §33]

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

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

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

339.623 [Formerly 343.187; renumbered 336.640 in 1993]

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

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

339.640 [Formerly 339.255; renumbered 336.665 in 1993]

TRAFFIC PATROL

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

339.655 Traffic patrols authorized; medical benefits; rules. (1) A district school board may do all things necessary, including the expenditure of district funds, to organize, supervise, control or operate

traffic patrols. A district school board may make rules relating to traffic patrols which are consistent with rules under ORS 339.660 (1).

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

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

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

(2) A member of a traffic patrol:

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

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

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

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

(2) The Department of State Police, the sheriff of each county or the police of each city may assist any public, private or parochial school in the organization, supervision, control or operation of its traffic patrol. [Formerly 336.480]

339.860 [Formerly 332.790; 2007 c.858 §69; renumbered 339.877 in 2007]

339.865 [Formerly 336.660; renumbered 339.883 in 2007]

ADMINISTRATION OF MEDICATION TO STUDENTS

339.866 Self-administration of medication by students. (1) As used in this section:

(a) "Asthma" means a chronic inflammatory disorder of the airways that requires ongoing medical intervention.

(b) "Medication" means any prescription for bronchodilators or autoinjectable epinephrine prescribed by a student's Oregon

licensed health care professional for asthma or severe allergies.

(c) "Severe allergy" means a life-threatening hypersensitivity to a specific substance such as food, pollen or dust.

(2) A school district board shall adopt policies and procedures that provide for self-administration of medication by kindergarten through grade 12 students with asthma or severe allergies:

(a) In school;

(b) At a school-sponsored activity;

(c) While under the supervision of school personnel;

(d) In before-school or after-school care programs on school-owned property; and

(e) In transit to or from school or school-sponsored activities.

(3) The policies and procedures shall:

(a) Require that an Oregon licensed health care professional prescribe the medication to be used by the student during school hours and instruct the student in the correct and responsible use of the medication;

(b) Require that an Oregon licensed health care professional, acting within the scope of the person's license, formulate a written treatment plan for managing the student's asthma or severe allergy and for the use of medication by the student during school hours;

(c) Require that the parent or guardian of the student submit to the school any written documentation required by the school, including any documents related to liability;

(d) Require that backup medication, if provided by a student's parent or guardian, be kept at the student's school in a location to which the student has immediate access in the event the student has an asthma or severe allergy emergency;

(e) Require that a school request from the student's parent or guardian that the parent or guardian provide medication for emergency use by the student; and

(f) Allow a school to revoke its permission for a student to self-administer medication if the student does not responsibly self-administer the medication or abuses the use of the medication.

(4) A school district board may impose other policies and procedures that the board determines are necessary to protect a student with asthma or a severe allergy.

(5) A school district board may not require school personnel who have not received appropriate training to assist a

student with asthma or a severe allergy with self-administration of medication.

(6) This section does not apply to youth correctional facilities. [2007 c.830 §1]

339.867 “Medication” defined for ORS 339.869 and 339.870. As used in ORS 339.869 and 339.870, “medication” means noninjectable medication. [1997 c.144 §1]

339.869 Administration of medication to students; rules. (1) The State Board of Education, in consultation with the Oregon Health Authority, the Oregon State Board of Nursing and the State Board of Pharmacy, shall adopt rules for the administration of prescription and nonprescription medication to students by trained school personnel and for student self-medication. The rules shall include age appropriate guidelines and training requirements for school personnel.

(2) School district boards shall adopt policies and procedures that provide for the administration of prescription and nonprescription medication to students by trained school personnel and for student self-medication. Such policies and procedures shall be consistent with the rules adopted by the State Board of Education under subsection (1) of this section. A school district board shall not require school personnel who have not received appropriate training to administer medication. [1997 c.144 §4; 2009 c.595 §214]

339.870 Liability of school personnel administering medication. (1) A school administrator, teacher or other school employee designated by the school administrator is not liable in a criminal action or for civil damages as a result of the administration of nonprescription medication, if the school administrator, teacher or other school employee in good faith administers nonprescription medication to a pupil pursuant to written permission and instructions of the pupil’s parents or guardian.

(2) A school administrator, teacher or other school employee designated by the school administrator is not liable in a criminal action or for civil damages as a result of the administration of prescription medication, if the school administrator, teacher or other school employee in compliance with the instructions of a physician, physician assistant, nurse practitioner or clinical nurse specialist, in good faith administers prescription medication to a pupil pursuant to written permission and instructions of the pupil’s parents or guardian.

(3) The civil and criminal immunities imposed by subsections (1) and (2) of this section do not apply to an act or omission amounting to gross negligence or willful and wanton misconduct. [Formerly 336.650; 1997 c.144 §2; 2001 c.143 §1; 2005 c.462 §1]

339.871 Liability of school personnel for student self-administering medication. (1) A school administrator, school nurse, teacher or other school employee designated by the school administrator is not liable in a criminal action or for civil damages as a result of a student’s self-administration of medication, as described in ORS 339.866, if the school administrator, school nurse, teacher or other school employee, in compliance with the instructions of the student’s Oregon licensed health care professional, in good faith assists the student’s self-administration of the medication pursuant to written permission and instructions of the student’s parent, guardian or Oregon licensed health care professional.

(2) The civil and criminal immunities imposed by this section do not apply to an act or omission amounting to gross negligence or willful and wanton misconduct. [2007 c.830 §2]

339.873 Recommendations on medication to affect or alter thought processes, mood or behavior prohibited; exceptions.

(1) A preschool through grade 12 public school administrator, teacher, counselor or nurse may not recommend to a parent or legal guardian of a student that the student seek a prescription for a medication that is prescribed with the intent of affecting or altering the thought processes, mood or behavior of the student.

(2) Preschool through grade 12 public school teachers and other school personnel may not require a child to obtain a prescription for a substance covered by the Controlled Substances Act, 21 U.S.C. 801 et seq., as a condition of attending school, receiving an evaluation to determine eligibility for early childhood special education or special education under ORS chapter 343 or receiving early childhood special education or special education services.

(3) Nothing in this section:

(a) Prohibits a preschool through grade 12 public school teacher or other school personnel from consulting or sharing classroom-based observations with a parent or legal guardian of a student concerning the student’s academic and functional performance, behavior at school or need for evaluation for special education or related services; or

(b) Relieves a school district of the duty to identify, locate and evaluate students with disabilities. [2003 c.485 §1; 2005 c.662 §13]

MISCELLANEOUS

339.875 Procurement, display and salute of flags. (1) Each district school board shall:

(a) Procure a United States flag and an Oregon State flag of suitable sizes and shall cause such flags to be displayed upon or near each public school building during school hours, except in unsuitable weather, and at such other times as the board deems proper.

(b) Provide students with the opportunity to salute the United States flag at least once each week of the school year by reciting: "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all."

(2) Students who do not participate in the salute provided for by this section must maintain a respectful silence during the salute. [Formerly 332.100 and then 336.045 and then 336.630; 1999 c.137 §1]

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

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

(2) All educational records for the person shall be sent to the common or union high school district issuing the diploma. The school district may make a transcript of such records available upon request in the same manner and in the same form as it makes any other transcript available and shall not therein indicate that any of the educational program was completed in any state institution. [Formerly 339.860; 2009 c.562 §23]

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

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

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

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

(4) As used in this section, "facility" means public or private schools, youth correction facilities or juvenile detention facilities. "Facility" does not include colleges or universities, career and technical education schools or community colleges. [Formerly 339.865; 2009 c.94 §9]

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

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

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

ENFORCEMENT

339.925 Compulsory school attendance violation procedure; rules. (1) In addition to any other persons permitted to enforce violations, the school district superintendent or education service district superintendent, or any employee specifically designated by either superintendent, may issue citations for violations established under ORS 339.990 in the manner provided by ORS chapter 153.

(2) Prior to issuing the citation described in subsection (3) of this section to the parent or guardian of a student not regularly attending full-time school, a school district superintendent or education service district superintendent shall:

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

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

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

(C) States that the superintendent may issue a citation;

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

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

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

(3) Notwithstanding ORS 1.525 or any provision of ORS chapter 153, the State Board of Education by rule shall establish the citation form to be used by superintendents in citing violations established under ORS 339.990. Notwithstanding ORS 153.045, each of the parts of the citation shall contain the information required by the state board.

(4) All fines and court costs recovered from compulsory school attendance violations shall be paid to the clerk of the court

involved. After deductions of court costs provided by law for the proceeding, the clerk shall pay the remainder of the money to the State Treasurer to be deposited in the Criminal Fine and Assessment Account in the General Fund. [1993 c.413 §4; 1995 c.116 §1; 1999 c.1051 §112]

PENALTIES

339.990 Penalties. Violation of ORS 339.020 or the requirements of ORS 339.035 is a Class C violation. [Amended by 1965 c.100 §299; 1967 c.67 §10; 1985 c.597 §3; 1993 c.413 §1; 1999 c.1051 §113]

