

# Chapter 339

2013 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.** Except as provided in ORS 339.030:

(1) 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 during the entire school term.

(2) All children five or six years of age who have been enrolled in a public school are required to attend regularly the public school while enrolled in the public school. [Amended by 1965 c.100 §274; 2012 c.91 §13]

**339.020 Duty to send children to school.** Except as provided in ORS 339.030:

(1) Every person having control of a child between the ages of 7 and 18 years who has not completed the 12th grade is required to send the child to, and maintain the child in, regular attendance at a public full-time school during the entire school term.

(2) If a person has control of a child five or six years of age and has enrolled the child in a public school, the person is required to send the child to, and maintain the child in, regular attendance at the public school while the child is enrolled in the public school. [Amended by 1965 c.100 §275; 1969 c.160 §1; 2012 c.91 §14]

**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 and the Higher Education Coordinating Commission 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; 2013 c.747 §190]

**Note:** The amendments to 339.030 by section 190, chapter 747, Oregon Laws 2013, become operative July 1, 2014. See section 204, chapter 747, Oregon Laws 2013. The text that is operative until July 1, 2014, is set forth for the user’s convenience.

**339.030.** (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.

**339.035 Teaching by private teacher, parent or guardian; rules.** (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 program 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 program or 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 may not be subject to the examination requirements of subsections (3)

and (4) of this section unless the examination is recommended in the program or plan in effect for the child. [1985 c.579 §2; 1989 c.619 §4; 1999 c.717 §1a; 2007 c.70 §95; 2013 c.1 §33]

**339.040 Attendance supervisors.** (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]

**339.071 Attendance notification policy.**

(1) Each district school board shall adopt an attendance notification policy that satisfies the requirements of this section.

(2) An attendance notification policy must:

(a) Be implemented by each school in the school district; and

(b) Require that each school ensure that a parent or other person in parental relationship to a child is notified by the end of the school day on any day that the child has an unplanned absence.

(3)(a) Notification required by subsection (2)(b) of this section must be provided:

(A) In person;

(B) Directly by telephone; or

(C) By any other method identified in writing by the parent or person in parental relationship to the child.

(b) If a parent or other person in parental relationship to a child cannot be contacted in person or directly by telephone and another method has not been identified by the parent or person, a message shall be left for the parent or person, if possible.

(4) Notice of the child's absence shall be provided to the attendance supervisor, who shall proceed as provided in ORS 339.055, if:

(a) Notification is not provided in person or directly by telephone; and

(b) The parent or other person in parental relationship to the child has not confirmed within the timeline established by the attendance notification policy that the parent or person has received notification. [2011 c.387 §1]

**Note:** 339.071 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 339 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**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]

**339.095 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. [Formerly 339.925]

**Note:** 339.095 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 339 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**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), 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 (7).

(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; 2011 c.718 §12; 2013 c.267 §10]

**Note:** The amendments to 339.115 by section 10, chapter 267, Oregon Laws 2013, become operative July 1, 2014. See section 12, chapter 267, Oregon Laws 2013. The text that is operative until July 1, 2014, is set forth for the user's convenience.

**339.115.** (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 non-residents.

(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), 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.

**339.119 Prohibition of payment as incentive to receive educational services; exceptions.** (1) As used in this section, “provider of educational services” means a public charter school, a district school board or a public or private provider of educational services that provides educational services under a contract or the authority of a public charter school or district school board.

(2) A provider of educational services may not offer payment of money or other consideration to a student, to a parent or legal guardian of a student or to another entity for the benefit of a student, parent or legal guardian:

(a) In return for the student electing to receive or receiving educational services from a specific provider of educational services; or

(b) Following the student’s completion of an educational program, if the provider of educational services used the promise of

payment as an incentive for the student to enroll in the program.

(3) The restrictions of subsection (2) of this section do not apply to:

(a) Money or other consideration that is provided as required or allowed by law;

(b) Money or other consideration that is provided for the purpose of enabling the student to access the Internet;

(c) Goods and services that are provided for use by a student and that are directly related to the educational program of the provider of educational services; or

(d) Goods and services that are available to all students receiving educational services from the provider of educational services. [2010 c.53 §1]

**Note:** 339.119 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 339 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

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

**339.122 Disclosures in promotional materials.** (1) As used in this section, “virtual public school” means a public school that:

(a) Provides online courses; and

(b) Does not primarily serve students in a physical location.

(2) In any advertising or other promotional materials of a virtual public school, including a virtual public charter school as defined in ORS 338.005, the school must clearly state that the school is a publicly funded school. [2010 c.72 §6]

**Note:** 339.122 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 339 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**339.125 Contract for 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]

**339.127 Factors prohibited from consideration when giving consent to non-resident student; limitations on consent.**

(1) A district school board that admits non-resident students by giving consent as described in ORS 339.133 (5)(a) may not consider race, religion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language, athletic ability or academic records when:

- (a) Determining whether to give consent; or
- (b) Establishing any terms of consent.

(2) A district school board that is considering whether to admit a nonresident student by giving consent may require only the following information prior to deciding whether to give consent:

(a) The name, contact information, date of birth and grade level of the student; and

(b) Information about whether the school district may be prevented or otherwise limited from providing consent as provided by ORS 339.115 (8).

(3)(a) A district school board that is considering whether to admit a nonresident student by giving consent may not:

(A) Request or require any person to provide or have provided any of the following information related to a student prior to the district school board deciding whether to give consent to the student:

(i) Information about the student's race, religion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language or athletic ability; or

(ii) Academic records, including eligibility for or participation in a talented and gifted program or special education and related services.

(B) Request or require the student to participate in an interview, to tour any of the schools or facilities of the school district or to otherwise meet with any represen-

tatives of a school or a school district prior to the district school board deciding whether to give consent to the student.

(C) Request any information used to supplement the information described in subsection (2) of this section prior to deciding whether to give consent to the student.

(b) Nothing in this subsection prevents a student from voluntarily touring any of the schools or facilities of a school district or from requesting or receiving any information from a school or the school district.

(4)(a) A district school board that admits nonresident students by giving consent as described in ORS 339.133 (5)(a) may limit the number of students to whom consent is given. The district school board must make the determination whether to limit the number of students to whom consent is given by an annual date established by the board.

(b) If the number of students seeking admission exceeds any limitations imposed by the district school board, the board must admit nonresident students based on an equitable lottery selection process. The process may give priority to students who have siblings currently enrolled in a school of the school district.

(c) A district school board may revise the maximum number of students to whom consent will be given at a time other than the annual date established by the board if there are no pending applications for consent.

(5) A district school board that is requested to give consent to allow a resident student to be admitted by another school district as described in ORS 339.133 (5)(a) may not consider race, religion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language, athletic ability or academic records when determining whether to give consent.

(6) If a district school board decides to not give consent to a student, the board must provide a written explanation to the student.

(7) A district school board that gives consent as provided by ORS 339.133 (5)(a) may determine the length of time for which consent is given. Any limitations in length of time must be applied consistently among all students to whom consent is given.

(8) Nothing in this section:

(a) Requires a district school board to admit siblings if the board imposes limitations on the number of students admitted by consent.

(b) Prevents a district school board from denying admission to a nonresident student as provided by ORS 339.115 (8).

(c) Prevents a district school board from requesting information or giving consent to a student in the event of an emergency to protect the health, safety or welfare of the student.

(d) Prevents a district school board from establishing minimum standards for behavior and attendance that a student must maintain to remain enrolled in the schools of the school district. [2013 c.655 §1]

**Note:** Section 2, chapter 655, Oregon Laws 2013, provides:

**Sec. 2.** (1) Section 1 of this 2013 Act [339.127] first applies to:

(a) Nonresident students who seek admission for the 2014-2015 school year; and

(b) State School Fund distributions commencing with the 2014-2015 distributions.

(2) Nothing in section 1 of this 2013 Act affects the status of a nonresident student who was admitted as provided by ORS 339.125 or 339.133 (5)(a) prior to the 2014-2015 school year. [2013 c.655 §2]

**Note:** The amendments to 339.127 by section 3, chapter 655, Oregon Laws 2013, become operative July 1, 2017. See section 20, chapter 718, Oregon Laws 2011, as amended by section 4, chapter 655, Oregon Laws 2013. The text that is operative on and after July 1, 2017, is set forth for the user's convenience.

**339.127.** (1) A district school board that admits nonresident students by giving consent as described in ORS 339.133 (5) may not consider race, religion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language, athletic ability or academic records when:

(a) Determining whether to give consent; or

(b) Establishing any terms of consent.

(2) A district school board that is considering whether to admit a nonresident student by giving consent may require only the following information prior to deciding whether to give consent:

(a) The name, contact information, date of birth and grade level of the student; and

(b) Information about whether the school district may be prevented or otherwise limited from providing consent as provided by ORS 339.115 (8).

(3)(a) A district school board that is considering whether to admit a nonresident student by giving consent may not:

(A) Request or require any person to provide or have provided any of the following information related to a student prior to the district school board deciding whether to give consent to the student:

(i) Information about the student's race, religion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language or athletic ability; or

(ii) Academic records, including eligibility for or participation in a talented and gifted program or special education and related services.

(B) Request or require the student to participate in an interview, to tour any of the schools or facilities of

the school district or to otherwise meet with any representatives of a school or a school district prior to the district school board deciding whether to give consent to the student.

(C) Request any information used to supplement the information described in subsection (2) of this section prior to deciding whether to give consent to the student.

(b) Nothing in this subsection prevents a student from voluntarily touring any of the schools or facilities of a school district or from requesting or receiving any information from a school or the school district.

(4)(a) A district school board that admits nonresident students by giving consent as described in ORS 339.133 (5) may limit the number of students to whom consent is given. The district school board must make the determination whether to limit the number of students to whom consent is given by an annual date established by the board.

(b) If the number of students seeking admission exceeds any limitations imposed by the district school board, the board must admit nonresident students based on an equitable lottery selection process. The process may give priority to students who have siblings currently enrolled in a school of the school district.

(c) A district school board may revise the maximum number of students to whom consent will be given at a time other than the annual date established by the board if there are no pending applications for consent.

(5) A district school board that is requested to give consent to allow a resident student to be admitted by another school district as described in ORS 339.133 (5) may not consider race, religion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language, athletic ability or academic records when determining whether to give consent.

(6) If a district school board decides to not give consent to a student, the board must provide a written explanation to the student.

(7) A district school board that gives consent as provided by ORS 339.133 (5) may determine the length of time for which consent is given. Any limitations in length of time must be applied consistently among all students to whom consent is given.

(8) Nothing in this section:

(a) Requires a district school board to admit siblings if the board imposes limitations on the number of students admitted by consent.

(b) Prevents a district school board from denying admission to a nonresident student as provided by ORS 339.115 (8).

(c) Prevents a district school board from requesting information or giving consent to a student in the event of an emergency to protect the health, safety or welfare of the student.

(d) Prevents a district school board from establishing minimum standards for behavior and attendance that a student must maintain to remain enrolled in the schools of the school district.

**339.128 Factors prohibited from consideration when admitting tuition-paying nonresident student.** (1) A district school board that admits nonresident students and charges nonresident students tuition may not consider race, religion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level,

residence, proficiency in the English language, athletic ability or academic records when:

(a) Determining whether to accept a nonresident student; or

(b) Establishing the amount of tuition.

(2) A district school board that admits nonresident students and charges nonresident students tuition may require a student seeking to attend the schools of the school district to provide the following information:

(a) The name, contact information, date of birth and grade level of the student; and

(b) Information about whether the school district may be prevented or otherwise limited from admitting the student as provided by ORS 339.115 (8).

(3)(a) A district school board that admits nonresident students and charges nonresident students tuition may not:

(A) Request or require any person to provide or have provided any of the following information related to a student prior to the district school board deciding whether to admit the student:

(i) Information about the student's race, religion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language or athletic ability; or

(ii) Academic records, including eligibility for or participation in a talented and gifted program or special education and related services.

(B) Request or require the student to participate in an interview, to tour any of the schools or facilities of the school district or to otherwise meet with any representatives of a school or a school district prior to the district school board deciding whether to admit the student.

(C) Request any information used to supplement the information described in subsection (2) of this section prior to deciding whether to admit the student.

(b) Nothing in this subsection prevents a student from voluntarily touring any of the schools or facilities of a school district or from requesting or receiving any information from a school or the school district.

(4) If a district school board decides to deny admission to a nonresident student and to charge the nonresident student tuition, the board must provide a written explanation to the student.

(5) Nothing in this section:

(a) Prevents a district school board from denying admission to a nonresident student as provided by ORS 339.115 (8).

(b) Prevents a district school board from requesting information or admitting a student in the event of an emergency to protect the health, safety or welfare of the student.

(c) Prevents a district school board from establishing minimum standards for behavior and attendance that a student must maintain to remain enrolled in the schools of the school district. [2013 c.655 §5]

**Note:** Section 6, chapter 655, Oregon Laws 2013, provides:

**Sec. 6.** (1) Section 5 of this 2013 Act [339.128] first applies to:

(a) Nonresident students who seek admission for the 2014-2015 school year; and

(b) State School Fund distributions commencing with the 2014-2015 distributions.

(2) Nothing in section 5 of this 2013 Act affects the status of a nonresident student who was admitted as provided by ORS 339.125 or 339.133 (5)(a) prior to the 2014-2015 school year. [2013 c.655 §6]

**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 and 327.731 and sections 1 to 3, chapter 735, Oregon Laws 2013, 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; 2007 c.846 §16; 2013 c.735 §15]

**Note:** The amendments to 339.129 by section 16, chapter 735, Oregon Laws 2013, become operative June 30, 2015. See section 20, chapter 735, Oregon Laws 2013. The text that is operative on and after June 30, 2015, 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 Determination of residency of student for school purposes.** (1)(a) Except as provided in subsections (2) to (6) of this section, children between the ages of 4 and 18 shall be considered resident for school purposes in the school district in which their parents, their guardians or persons in parental relationship to them reside.

(b) 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.

(c) 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 reside.

(2) 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.

(3) 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.

(4)(a) Notwithstanding subsection (3) 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.

(5) 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 are considered residents in the district in which the persons attend school if those persons receive:

(a) Written consent from both of the affected district school boards as provided by policies adopted by the boards; or

(b) Written consent from the district school board for the district in which the school is located as provided by section 9, chapter 718, Oregon Laws 2011.

(6)(a) Children who are foreign exchange students and who are residing in Oregon in a dormitory operated by a school district are considered to be residents of the school district in which the dormitory is located.

(b) For the purpose of this subsection:

(A) A child may not be considered to be a foreign exchange student for more than one school year.

(B) A child may be considered to be a resident of a school district as provided by this subsection only if, for the 2010-2011 school year, the school district had foreign exchange students who were considered to be residents as provided by this subsection.

(C) The number of children who are considered to be residents as provided by this subsection may not increase from the number that were considered to be residents as provided by this subsection for the 2010-2011 school year.

(c) As used in this subsection, “foreign exchange student” means a student who attends school in Oregon under a cultural exchange program and whose parent, guardian or person in parental relationship resides in another country.

(7) 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; 2010 c.21 §§1,3; 2011 c.718 §§3,8]

**Note 1:** The amendments to 339.133 by section 4, chapter 718, Oregon Laws 2011, become operative July 1, 2015. See section 5, chapter 718, Oregon Laws 2011, as amended by section 3, chapter 641, Oregon Laws 2013. The text that is operative from July 1, 2015, until July 1, 2017, is set forth for the user’s convenience.

**339.133.** (1)(a) Except as provided in subsections (2) to (5) 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.

(b) 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.

(c) 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 reside.

(2) 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.

(3) 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.

(4)(a) Notwithstanding subsection (3) 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.

(5) 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 are considered residents in the district in which the persons attend school if those persons receive:

(a) Written consent from both of the affected district school boards as provided by policies adopted by the boards; or

(b) Written consent from the district school board for the district in which the school is located as provided by section 9, chapter 718, Oregon Laws 2011.

(6) 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.

**Note 2:** The amendments to 339.133 by section 19, chapter 718, Oregon Laws 2011, become operative July 1, 2017, and first apply to the 2017-2018 school year. See section 20, chapter 718, Oregon Laws 2011, as amended by section 4, chapter 655, Oregon Laws 2013. The text that is operative on and after July 1, 2017, is set forth for the user’s convenience.

**339.133.** (1)(a) Except as provided in subsections (2) to (5) 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.

(b) 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.

(c) 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 reside.

(2) 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.

(3) 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.

(4)(a) Notwithstanding subsection (3) 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.

(5) 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 are considered residents in the district in which the persons attend school if those persons receive written consent from both of the affected district school boards as provided by policies adopted by the boards.

(6) 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.

**Note 3:** Section 22, chapter 718, Oregon Laws 2011, provides:

**Sec. 22.** (1) Nothing in the amendments to ORS 339.133 by section 19 of this 2011 Act and the repeal of section 9 of this 2011 Act by section 21 of this 2011 Act affects the status of a person who was considered a resident as provided by ORS 339.133 (5)(b) prior to the 2017-2018 school year.

(2) Notwithstanding section 9 of this 2011 Act, a school district is not required to take any action under section 9 of this 2011 Act for the 2017-2018 school year. [2011 c.718 §22]

### **(Temporary provisions relating to nonresident student attending school as resident)**

**Note:** Section 9, chapter 718, Oregon Laws 2011, provides:

**Sec. 9.** (1) For purposes of ORS 339.133 (5)(b), a person whose legal residence is not within a school district but who attends school in the district is considered a resident of the district in which the person attends school if the person receives written consent to

attend school from the district school board where the school is located, as provided by this section.

(2)(a) By March 1 of each year, a district school board shall determine whether the board will give consent to persons whose legal residence is not within the school district.

(b) If the district school board will give consent, the board shall establish standards by which consent will be given. The standards must:

(A) Identify the number of persons to whom consent will be given for the school year. The district school board may limit the number of persons to whom consent will be given based on school, grade or a combination of school and grade.

(B) Allow persons who live within the boundaries of the school district the first opportunity to change to a different school in the district if the district school board will be giving consent to attend that school to persons who do not reside within the district.

(3) A person seeking consent as provided by this section must request consent no later than April 1 prior to the beginning of the school year for which consent is being requested. Requests may be submitted before the district school board makes the determination and establishes the standards described in subsection (2) of this section, but may not be considered by the board when the board makes the determination and establishes the standards.

(4)(a) A district school board must give consent to a person who requests consent unless:

(A) The board decides to not give consent to any person as allowed by subsection (2) of this section;

(B) The board decides to limit the number of persons to whom consent will be given and the person was not selected to be given consent based on the selection process described in subsection (5) of this section; or

(C) The board is not required to admit the person, as provided by ORS 339.115 (8).

(b) A district school board may not deny consent or give priority based on race, religion, sex, sexual orientation, ethnicity, national origin, disability, terms of an individualized education program, income level, proficiency in the English language, athletic ability or residence.

(5) If the number of persons seeking consent exceeds the number of persons to whom the district school board has determined will be given consent, the board shall give consent based on an equitable lottery selection process. The process may give priority to persons who have siblings currently enrolled in a school of the school district, but in no event may a sibling be given priority to any open spot in the schools of the school district over any persons who reside within the school district.

(6)(a) If a person is considered a resident of the school district as provided by this section and the person has expressed an interest in attending the schools of another school district before the end of the school year, the school district shall meet with the person and encourage the person to continue to attend the schools of the school district for the remainder of the school year.

(b) If a person is considered a resident of the school district as provided by this section, the school district may not encourage or require the person to attend the schools of another school district as a condition of avoiding a disciplinary measure, including but not limited to suspension or expulsion.

(7)(a) Except as provided by paragraphs (b) and (c) of this subsection, a person who receives consent and who is considered a resident of a district as provided by this section shall be considered a resident of the district for all educational purposes. A person who is considered a resident of the district as provided by this

section shall continue to be considered a resident of the district until the person:

(A) Graduates from high school;

(B) Is no longer required to be admitted to the schools of the school district under ORS 339.115; or

(C) Enrolls in a school in a different school district.

(b) A school district is not required to provide transportation outside the boundaries of the district to a person who is considered a resident of the district as provided by this section, except that a district:

(A) Must allow persons who are considered a resident of the district as provided by this section to use existing bus routes and transportation services of the district. Costs incurred for transportation provided under this subparagraph are considered approved transportation costs for purposes of ORS 327.013, except for costs incurred for providing transportation solely to persons who are considered residents of the district as provided by this section if the transportation is provided:

(i) Outside the boundaries of the district; and

(ii) For the purpose of transporting the persons between home and school.

(B) May provide a stipend for a person who is a member of a low-income family, as defined in ORS 339.147, in an amount that does not exceed the district's average cost per student for transportation.

(C) Must provide transportation if required by federal law. Costs incurred for transportation provided under this subparagraph are considered approved transportation costs for purposes of ORS 327.013.

(c) After the first year that a person is considered a resident of a district as provided by this section, the district school board may transfer the person to a different school in the district. Any transfers must be made consistent with district policy and do not affect the status of the person as a resident of the district.

(8) A district school board shall provide written notification of the attendance of a person who receives consent as provided by this section to the district school board where the legal residence of the person is located. The written notification required by this subsection must be provided no later than May 1 prior to the beginning of the school year for which consent was given.

(9) Nothing in this section:

(a) Requires a district school board to give consent to siblings if the board determines that consent will not be given to any students for a school year.

(b) Prevents a school district from entering into interagency agreements to provide services to persons who do not reside in the school district or are not considered residents of the school district.

(c) Prevents or otherwise limits a district school board from providing consent to a person who has received consent from the district school board for the school district in which the person resides, as provided by ORS 339.133 (5)(a). [2011 c.718 §9; 2013 c.434 §5]

**Note:** Sections 7 and 8, chapter 434, Oregon Laws 2013, provide:

**Sec. 7.** A school district that provides consent to nonresident persons to attend the schools of the school district as provided by section 9, chapter 718, Oregon Laws 2011, may not expend moneys received from the State School Fund or as Local Revenues, as described in ORS 327.011, to advertise openings for nonresident persons if the advertisements are:

(1) Located outside the boundaries of the school district, including advertisements that are made by signage or billboards; or

(2) Directed to persons who are not residents of the school district, including:

(a) Advertisements that are targeted to nonresidents through direct mail or online direct marketing;

(b) Television or radio advertisements; or

(c) Newspaper advertisements, unless the advertisement is in a newspaper that primarily serves the residents of the school district. [2013 c.434 §7]

**Sec. 8.** Section 7 of this 2013 Act applies to contracts for advertising entered into by a school district on or after the effective date of this 2013 Act [June 18, 2013]. [2013 c.434 §8]

**Note:** Section 21, chapter 718, Oregon Laws 2011, provides:

**Sec. 21.** Section 9, chapter 718, Oregon Laws 2011, and section 7 of this 2013 Act [section 7, chapter 434, Oregon Laws 2013] are repealed on July 1, 2017. [2011 c.718 §21; 2013 c.434 §9]

**339.134 Residency of child with disability.** (1) Notwithstanding ORS 339.133 (3), 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; 2011 c.718 §13]

**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]

**Note:** The amendments to 339.141 by section 5, chapter 704, Oregon Laws 2011, become operative July 1, 2015, and first apply to the 2015-2016 school year. See sections 6 and 14, chapter 704, Oregon Laws 2011. The text that is operative on and after July 1, 2015, is set forth for the user's convenience.

**339.141.** (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 that is provided in the schools of the school district, including public charter schools, and that is provided:

(A) As required full-day sessions in grades 1 through 12;

(B) As required half-day sessions in kindergarten or as optional full-day sessions in kindergarten; and

(C) During the hours and months when the schools of the school district or public charter schools are normally in operation, except 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.

**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 extracurricular 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; policies on discipline, suspension, expulsion, threats of violence or harm, firearms and physical force; student handbook or code of conduct; enforcement of policies.** (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) Each district school board shall adopt written policies for the discipline, suspension or expulsion of any refractory student. The policies:

(a) May allow discipline, suspension or expulsion for conduct that includes, but is not limited to:

(A) Willful disobedience;

(B) Open defiance of the authority of a school employee;

(C) Possession or distribution of tobacco, alcohol, drugs or other controlled substances;

(D) Use or display of profane or obscene language;

(E) Willful damage or injury to school property;

(F) Use of threats, intimidation, harassment or coercion against a student or a school employee;

(G) Assault of a school employee or another student; or

(H) Intentional attempts, by word or conduct, to place a school employee or another student in fear of imminent serious physical injury.

(b) Must limit the use of expulsion to the following circumstances:

(A) For conduct that poses a threat to the health or safety of students or school employees;

(B) When other strategies to change student conduct have been ineffective; or

(C) When the expulsion is required by law.

(c) Must require consideration of the age of a student and the past pattern of behavior of a student prior to imposing the suspension or expulsion of a student.

(d) Must be limited so that:

(A) The duration of an expulsion may not be more than one calendar year.

(B) The duration of a suspension may not be more than 10 school days.

(e) Notwithstanding ORS 336.010, may require a student to attend school during nonschool hours as an alternative to suspension if the total number of hours does not exceed the equivalent of 10 school days.

(3) Pursuant to the policies adopted as provided by subsection (2) of this section, each school district shall develop a student handbook, code of conduct or other document that:

(a) Defines and helps create a learning environment that students respect;

(b) Defines acceptable norms of behavior for students and the types of behavior that are subject to discipline;

(c) Establishes procedures to address behavior or circumstances that pose a threat to the safety of students or employees of the school;

(d) Establishes a system of consequences that are designed to correct student misconduct and promote behavior within acceptable norms; and

(e) Makes the system of consequences known to the school community through the dissemination of information to students, parents, legal guardians and school district employees.

(4) Each district school board shall adopt written policies on managing students who threaten violence or harm in public schools. The policies adopted by a district school board under this section shall include all of the following:

(a) Staff reporting methods.

(b) Provisions that allow an administrator to consider and implement any of the following options:

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

(C) Requiring that a school obtain an evaluation of a student by a licensed mental health professional before allowing the student to return to the classroom setting. A student who is removed from the classroom setting for an evaluation may not be removed for more than 10 school days unless the administrator is able to show good cause that an evaluation could not be completed in that time period. The policy must describe the circumstances under which the district school board may enter into contracts with licensed mental health professionals to perform any evaluations required under this subparagraph.

(c) The requirement that an administrator provide to the parent or legal guardian of the student notification that describes the student's behavior and the school's response.

(d) A provision for the allocation of any funds necessary for the school district to implement the policies described in this subsection.

(5) In establishing and enforcing discipline, suspension and expulsion policies, a district school board shall ensure that the policy is designed to:

(a) Protect students and school employees from harm;

(b) Provide opportunities for students to learn from their mistakes;

(c) Foster positive learning communities;

(d) Keep students in school and attending class;

(e) Impose disciplinary sanctions without bias against students from a protected class, as defined in ORS 339.351;

(f) Implement a graduated set of age-appropriate responses to misconduct that are fair, nondiscriminatory and proportionate in relation to each student's individual conduct;

(g) Employ a range of strategies for prevention, intervention and discipline that take into account a student's developmental capacities and that are proportionate to the degree and severity of the student's misbehavior;

(h) Propose, prior to a student's expulsion or leaving school, 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) Following a second or subsequent occurrence within any three-year period of a severe disciplinary problem with the student;

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

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

(i) To the extent practicable, use approaches that are shown through research to be effective in reducing student misbehavior and promoting safe and productive social behavior; and

(j) Ensure that school conduct and discipline codes comply with all state and federal laws concerning the education of students with disabilities.

(6) Except for policies adopted under subsection (7) of this section, any policies adopted under this section must provide for the dissemination of information about alternative programs of instruction or instruction combined with counseling, as described in subsection (5)(h) of this section, in writing to the student and the parent, legal guardian or person in parental relationship with the student at least once every six months, unless the information has changed because of the availability of new programs.

(7) Each district school board shall adopt a written policy involving firearms, as defined in 18 U.S.C. 921. The policy shall:

(a) Require expulsion from school for a period of not less than one year of any student who is determined to have:

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

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

(C) Brought to or possessed, concealed or used a firearm at an interscholastic activity administered by a voluntary organization.

(b) Allow exceptions:

(A) 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, firearm-related sports or firearm-related vocational courses; and

(B) Identified by and adopted by the State Board of Education by rule.

(c) Allow a superintendent of a school district to:

(A) Modify the expulsion requirement for a student on a case-by-case basis.

(B) Propose alternative programs of instruction or instruction combined with counseling for a student that are appropriate and accessible to the student. If alternative programs are appropriate for a student, the superintendent shall ensure that information about programs of instruction or instruction combined with counseling is provided in writing to the student and the parent, legal guardian or person in parental relationship with the student at least once every six months, or at any time the information changes because of the availability of new programs.

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

(e) Require an annual reporting to the Department of Education of the name of each school that had an expulsion under this subsection and the number of students expelled from each school.

(8) Each district school board shall adopt and disseminate written policies for the use of physical force upon a student. The policies must allow an individual who is a teacher, administrator, school employee or school volunteer to use reasonable physical force upon a student when and to the extent the application of force is consistent with ORS 339.291.

(9)(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:

(A) "Corporal punishment" means the willful infliction of, or willfully causing the infliction of, physical pain on a student.

(B) "Corporal punishment" does not include:

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

(ii) 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; 2011 c.313 §20; 2011 c.665 §§8,9; 2013 c.133 §3; 2013 c.267 §§3,5]

**Note:** The amendments to 339.250 by section 5, chapter 267, Oregon Laws 2013, become operative July 1, 2014, and first apply to the 2014-2015 school year. See section 6, chapter 267, Oregon Laws 2013. The text that is operative until July 1, 2014, including amendments by section 3, chapter 133, Oregon Laws 2013, and section 3, chapter 267, Oregon Laws 2013, is set forth for the user's convenience.

**339.250.** (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 application of force is consistent with ORS 339.291. 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.

(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 non-school 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, bylaw, 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.

**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 (5)(h) or (7)(c)(B), 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 (7).

(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; 2013 c.267 §11]

**Note:** The amendments to 339.252 by section 11, chapter 267, Oregon Laws 2013, become operative July 1, 2014. See section 12, chapter 267, Oregon Laws 2013. The text that is operative until July 1, 2014, is set forth for the user's convenience.

**339.252.** (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.

**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** [1965 c.100 §290; 1971 c.561 §4; 1985 c.514 §1; 1993 c.806 §5; 1995 c.656 §3; 2003 c.690 §1; repealed by 2011 c.313 §25]

**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 may determine the reasonable cost of repairing or replacing the school district property. If the cost is \$50 or more, the school district may notify the student and the parent or guardian of the student about the cost and may 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.

(2) 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; 2011 c.313 §15]

**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]

## RESTRAINT AND SECLUSION

**339.285 Definitions for ORS 339.285 to 339.303.** As used in ORS 339.285 to 339.303:

(1)(a) "Physical restraint" means the restriction of a student's movement by one or more persons holding the student or applying physical pressure upon the student.

(b)(A) "Physical restraint" does not include the touching or holding of a student without the use of force for the purpose of directing the student or assisting the student in completing a task or activity.

(B) "Physical restraint" does not include prone restraint as defined in ORS 339.288.

(2) "Public education program" means a program that:

(a) Is for students in early childhood education, elementary school or secondary school;

(b) Is under the jurisdiction of a school district, an education service district or another educational institution or program; and

(c) Receives, or serves students who receive, support in any form from any program supported, directly or indirectly, with funds appropriated to the Department of Education.

(3)(a) "Seclusion" means the involuntary confinement of a student alone in a room from which the student is physically prevented from leaving.

(b) "Seclusion" does not include the removal of a student for a short period of time to provide the student with an opportunity to regain self-control if the student is in a setting from which the student is not physically prevented from leaving.

(4) "Serious bodily injury" means any significant impairment of the physical condition of a person, as determined by qualified medical personnel, whether self-inflicted or inflicted by someone else. [2011 c.665 §1]

**339.288 Prohibitions on use of certain restraints; limitations on use of physical restraint and seclusion.** (1) The use of a mechanical restraint, chemical restraint or prone restraint on a student in a public education program in this state is prohibited.

(2) The use of physical restraint or seclusion on a student in a public education program in this state is prohibited unless used as provided in ORS 339.291.

(3) As used in this section:

(a) "Chemical restraint" means a drug or medication that is used on a student to control behavior or restrict freedom of movement and that is not:

(A) Prescribed by a licensed physician or other qualified health professional acting under the professional's scope of practice for standard treatment of the student's medical or psychiatric condition; and

(B) Administered as prescribed by a licensed physician or other qualified health professional acting under the professional's scope of practice.

(b)(A) "Mechanical restraint" means a device used to restrict the movement of a student or the movement or normal function of a portion of the body of a student.

(B) "Mechanical restraint" does not include:

(i) A protective or stabilizing device ordered by a licensed physician; or

(ii) A vehicle safety restraint when used as intended during the transport of a student in a moving vehicle.

(c) "Prone restraint" means a restraint in which a student is held face down on the floor. [2011 c.665 §2]

**339.291 Use of physical restraint or seclusion.** (1)(a) Physical restraint or seclusion may be used on a student in a public education program only if:

(A) The student's behavior imposes a reasonable threat of imminent, serious bodily injury to the student or others; and

(B) Less restrictive interventions would not be effective.

(b) Physical restraint or seclusion may not be used for discipline, punishment or convenience of personnel of the public education program.

(2) If physical restraint or seclusion is used on a student, the physical restraint or seclusion must be:

(a) Used only for as long as the student's behavior poses a reasonable threat of imminent, serious bodily injury to the student or others;

(b) Imposed by personnel of the public education program who are:

(A) Trained to use physical restraint or seclusion through programs described in ORS 339.300; or

(B) Otherwise available in the case of an emergency circumstance when personnel described in subparagraph (A) of this paragraph are not immediately available due to the unforeseeable nature of the emergency circumstance; and

(c) Continuously monitored by personnel of the public education program for the duration of the physical restraint or seclusion.

(3) In addition to the requirements described in subsection (2) of this section, if physical restraint or seclusion continues for more than 30 minutes:

(a) The student must be provided with adequate access to the bathroom and water every 30 minutes;

(b) Personnel of the public education program must immediately attempt to verbally or electronically notify a parent or guardian of the student; and

(c) Every 15 minutes after the first 30 minutes of the physical restraint or seclusion, an administrator for the public education program must provide written authorization for the continuation of the physical restraint or seclusion, including providing documentation for the reason the physical restraint or seclusion must be continued. [2011 c.665 §3]

**339.294 Procedures following incident; notification; records.** (1) Each entity that has jurisdiction over a public education program must establish procedures for the public education program to follow after an



incident involving the use of physical restraint or seclusion.

(2) Following an incident involving the use of physical restraint or seclusion, the following must be provided to a parent or guardian of the student:

(a) Verbal or electronic notification of the incident by the end of the school day when the incident occurred.

(b) Written documentation of the incident within 24 hours of the incident that provides:

(A) A description of the physical restraint or seclusion, including:

(i) The date of the physical restraint or seclusion;

(ii) The times when the physical restraint or seclusion began and ended; and

(iii) The location of the physical restraint or seclusion.

(B) A description of the student's activity that prompted the use of physical restraint or seclusion.

(C) The efforts used to de-escalate the situation and the alternatives to physical restraint or seclusion that were attempted.

(D) The names of the personnel of the public education program who administered the physical restraint or seclusion.

(E) A description of the training status of the personnel of the public education program who administered the physical restraint or seclusion, including any information that may need to be provided to the parent or guardian under subsection (3) of this section.

(c) Timely notification of a debriefing meeting to be held as provided by subsection (4) of this section and the parent's or guardian's right to attend the meeting.

(3) If the personnel of the public education program who administered the physical restraint or seclusion had not received training as provided by ORS 339.300, the administrator of the public education program shall ensure that a parent or guardian of the student and the district superintendent receive written notification of:

(a) The lack of training; and

(b) The reason the physical restraint or seclusion was administered by a person without training.

(4)(a) A debriefing meeting related to the use of physical restraint or seclusion must be held within two school days of the incident and must include all personnel of the public education program who were involved in the incident and any other appropriate personnel.

(b) Written notes must be taken of the debriefing meeting, and a copy of the written

notes must be provided to a parent or guardian of the student.

(5) If a student is involved in five incidents in a school year involving physical restraint or seclusion, a team consisting of personnel of the public education program and a parent or guardian of the student must be formed for the purposes of reviewing and revising the student's behavior plan and ensuring the provision of any necessary behavioral supports.

(6) If serious bodily injury or death of a student occurs in relation to the use of physical restraint or seclusion, written notification of the incident must be provided within 24 hours of the incident to the Department of Human Services.

(7) If serious bodily injury or death of personnel of the public education program occurs in relation to the use of physical restraint or seclusion, written notification of the incident must be provided within 24 hours of the incident to the district superintendent and, if applicable, to the union representative for the affected party.

(8) Each public education program must maintain a record of each incident in which injuries or death occurs in relation to the use of physical restraint or seclusion. [2011 c.665 §4]

**339.297 Annual report.** (1) Each entity that has jurisdiction over a public education program must prepare and submit to the Superintendent of Public Instruction an annual report detailing the use of physical restraint and seclusion for the preceding school year, including, at a minimum:

(a) The total number of incidents involving physical restraint.

(b) The total number of incidents involving seclusion.

(c) The total number of seclusions in a locked room.

(d) The total number of rooms available for use by the public education program for seclusion of a student and a description of the dimensions and design of the rooms.

(e) The total number of students placed in physical restraint.

(f) The total number of students placed in seclusion.

(g) The total number of incidents that resulted in injuries or death to students or personnel as a result of the use of physical restraint or seclusion.

(h) The number of students who were placed in physical restraint or seclusion more than 10 times in the course of a school year and an explanation of what steps have been taken by the public education program

to decrease the use of physical restraint and seclusion for each student.

(i) The number of incidents in which the personnel of the public education program administering physical restraint or seclusion were not trained as provided by ORS 339.300.

(j) The demographic characteristics of all students upon whom physical restraint or seclusion was imposed, including race, ethnicity, gender, disability status, migrant status, English proficiency and status as economically disadvantaged, unless the demographic information would reveal personally identifiable information about an individual student.

(2)(a) Each entity that has jurisdiction over a public education program shall make its annual report about physical restraint and seclusion available to:

(A) The public at the entity's main office and the website of the entity;

(B) The board or governing body overseeing the entity;

(C) If the entity is an education service district, the component school districts of the education service district; and

(D) If the entity is a public charter school, the sponsor of the public charter school.

(b) Parents and guardians of students in a public education program shall be advised at least once each school year about how to access the report. [2011 c.665 §5; 2013 c.650 §4]

**339.300 Training programs.** The Department of Education shall approve training programs in physical restraint and seclusion that:

(1) Teach evidence-based techniques that are shown to be effective in the prevention and safe use of physical restraint or seclusion;

(2) Provide evidence-based skills training related to positive behavior support, conflict prevention, de-escalation and crisis response techniques; and

(3) Are consistent with the philosophies, practices and techniques for physical restraint and seclusion that are established by rule or policy of the Department of Human Services. [2011 c.665 §6]

**339.303 Rules for complaints, investigations and seclusion rooms.** The State Board of Education shall adopt by rule:

(1) A process for an organization or an individual to submit to the Superintendent of Public Instruction a written, signed complaint alleging that a public education program is violating or has violated a provision of ORS 339.285 to 339.303. The complaint must indicate that, prior to submitting the

complaint to the superintendent, the organization or individual attempted to seek a remedy for the complaint from the board or governing body overseeing the entity that has jurisdiction over the public education program against which the complaint is being submitted.

(2) A process for investigating a complaint submitted under subsection (1) of this section.

(3) The minimum standards for any rooms used by a public education program for seclusion of a student. The standards must:

(a) Take into account the health and safety of students and personnel of the public education program and the respect and dignity of students; and

(b) Include consideration of the size, safety features, lighting and ventilation of the rooms. [2013 c.650 §2]

**Note:** Section 3, chapter 650, Oregon Laws 2013, provides:

**Sec. 3.** The minimum standards adopted by the State Board of Education for rooms used by a public education program for seclusion of a student, as provided by section 2 (3) of this 2013 Act [339.303 (3)], first apply to the 2014-2015 school year. The State Board of Education may not apply or enforce standards related to rooms used for seclusion until on or after July 1, 2014. [2013 c.650 §3]

**339.308 Seclusion cell prohibition.** (1) As used in this section:

(a) "Public education program" means a program that:

(A) Is for students in early childhood education, elementary school or secondary school;

(B) Is under the jurisdiction of a school district, an education service district or another educational institution or program; and

(C) Receives, or serves students who receive, support in any form from any program supported, directly or indirectly, with funds appropriated to the Department of Education.

(b) "Seclusion cell" means a freestanding, self-contained unit that is used to:

(A) Isolate a student from other students;

or  
(B) Physically prevent a student from leaving the unit or cause the student to believe that the student is physically prevented from leaving the unit.

(2) A public education program may not:

(a) Purchase, build or otherwise take possession of a seclusion cell; or

(b) Use a seclusion cell.

(3) Nothing in this section prevents a public education program from using seclusion as allowed under ORS 339.285 to 339.303. [2013 c.30 §1; 2013 c.30 §2; 2013 c.133 §1a; 2013 c.267 §1a]

**SCHOOL SAFETY  
(Employee Injuries)**

**339.309 Required reports of employee injuries.** (1) Each district school board shall establish a policy for the reporting of incidents that:

(a) Result in the injury of an employee of the school district; and

(b) Are sustained while in the actual performance of the duty of the employee.

(2) A policy established as provided by this section must align, to the extent practicable, with any existing reporting requirements. [2013 c.283 §1]

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

**(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 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 other-

wise 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 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; 2011 c.313 §21]

**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 ad-

ministrator 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 Superintendent of Public Instruction if the youth is in an educational program under the Youth Corrections Education Program.

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

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

(e) 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 to 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 proce-

dures 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 enlarges an existing cause of action for compensation or damages. [2008 c.50 §3; 2009 c.447 §2; 2011 c.9 §35]

**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]

#### **(Automated External Defibrillator)**

**339.345 Requirement to have automated external defibrillator.** Each school campus in a school district, private school campus and public charter school campus shall have on the premises at least one automated external defibrillator. [2010 c.62 §1]

**Note:** Section 2, chapter 62, Oregon Laws 2010, provides:

**Sec. 2.** A school in a school district, private school or public charter school shall comply with section 1 of this 2010 Act [339.345] on or before January 1, 2015. [2010 c.62 §2]

**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 shall 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 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:

(A) Identify by job title the school officials responsible for receiving such a report at a school.

(B) Require a school employee to report an act of harassment, intimidation or bullying or an act of cyberbullying to a person identified under subparagraph (A) of this paragraph.

(C) Identify any remedial action that may be imposed on a school employee for failure to make a report as required by subparagraph (B) of this paragraph.

(D) Allow a student or volunteer to report an act of harassment, intimidation or bullying or an act of cyberbullying voluntarily and anonymously to a person identified under subparagraph (A) of this paragraph. Nothing in this subparagraph may be construed to permit remedial action solely on the basis of an anonymous report.

(g) 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.

(h) 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.

(i) 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.

(j) 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.

(k) 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.

(L) 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.

(m) 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.

(n) The identification by job title of school officials and school district officials responsible for ensuring that the 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; 2012 c.57 §1]

**339.359 Training programs; prevention task forces, programs and other initiatives.** (1) School districts must incorporate into existing training programs for students and school employees information related to:

(a) The prevention of, and the appropriate response to, acts of harassment, intimidation and bullying and acts of cyberbullying; and

(b) The policy adopted under ORS 339.356.

(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; 2012 c.57 §2]

**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) A school employee 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 must report the act to the appropriate school official designated by the school district's policy.

(b) A 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; 2012 c.57 §3]

**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]

#### (Teen Dating Violence)

**339.366 Required policy on teen dating violence.** (1) As used in this section:

(a) "Dating" or "dating relationship" means an ongoing social relationship of a romantic or intimate nature between two persons. "Dating" or "dating relationship" does not include a casual relationship or ordinary fraternization between two persons in a business or social context.

(b) "Teen dating violence" means:

(A) A pattern of behavior in which a person uses or threatens to use physical, mental or emotional abuse to control another person who is in a dating relationship with the person, where one or both persons are 13 to 19 years of age; or

(B) Behavior by which a person uses or threatens to use sexual violence against another person who is in a dating relationship with the person, where one or both persons are 13 to 19 years of age.

(2) Each school district board shall adopt a policy that:

(a) States that teen dating violence is unacceptable and is prohibited and that each student has the right to a safe learning environment;

(b) Incorporates age-appropriate education about teen dating violence into new or existing training programs for students in grades 7 through 12 and school employees as recommended by the school officials identified under paragraph (d) of this subsection;

(c) Establishes procedures for the manner in which employees of a school are to respond to incidents of teen dating violence that take place at the school, on school grounds, at school-sponsored activities or in vehicles used for school-provided transportation;

(d) Identifies by job title the school officials who are responsible for receiving reports related to teen dating violence, which shall be the same school officials identified in the policy adopted by a school district under ORS 339.356; and

(e) Notifies students and parents of the teen dating violence policy adopted by the board.

(3) The policy adopted under subsection (2) of this section must be included in and consistent with the policy adopted by a school district under ORS 339.356. [2012 c.69 §1]

#### **(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 abuse or sexual conduct that:

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

(b) If the subject of the report is a school employee, 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 to kindergarten through grade 12

students instructional programs that are not limited solely to dancing, drama, music, religious or athletic instruction.

(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 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 or the student's education record. [2005 c.367 §1; 2007 c.501 §1; 2007 c.858 §68; 2009 c.93 §1; 2009 c.562 §22; 2011 c.301 §6; 2012 c.92 §2]

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

(1) Specify that abuse and sexual conduct by school employees and abuse by students are not tolerated;

(2) Specify that all school employees and students are subject to the policies;

(3) Require all school employees who have reasonable cause to believe that another school employee has engaged in abuse or sexual conduct or that a student has engaged in abuse to:

(a) Report suspected 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 abuse or sexual conduct to the person designated as provided by subsection (4) of this section;

(4) Designate a person, and an alternate in the event the designated person is the suspected abuser, to receive reports of sus-

pected abuse or sexual conduct by school employees or suspected abuse by students 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 abuse or sexual conduct by school employees or suspected abuse by students 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 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 abuse or sexual conduct by a school employee or suspected abuse by a student;

(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 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 (8) if a report of suspected abuse or sexual conduct is substantiated. [2005 c.367 §2; 2009 c.93 §2; 2012 c.92 §3; 2013 c.553 §2]

**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 abuse or sexual conduct; or

(B) Is the subject of an ongoing investigation related to a report of suspected 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 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 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 (8).

(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 abuse or sexual conduct.

(4) Conduct a nationwide criminal records check if required by ORS 326.603. [2009 c.93 §7; 2012 c.92 §5; 2013 c.553 §3]

**Note:** Section 1, chapter 21, Oregon Laws 2013, provides:

**Sec. 1. Applicability of duties of education provider related to abuse and sexual conduct.** (1) The requirements of ORS 339.374 (2), relating to the information requested by an education provider from other education providers who are recent employers of an applicant, and ORS 339.378, relating to the information that education providers must provide upon request, apply to all of an applicant's conduct that is known by the employer, regardless of whether the conduct occurred before, on or after July 1, 2010, if the employer has complied with the procedural provisions described in ORS 339.388.

(2) The requirements of ORS 339.392, relating to the prohibition against entering into certain agreements and contracts after July 1, 2010, apply to all conduct described in ORS 339.392, regardless of whether the conduct occurred before, on or after July 1, 2010. [2013 c.21 §1]

**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 (8).

(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 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; 2012 c.92 §6; 2013 c.553 §4]

**Note:** See note under 339.374.

**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]

**339.388 Report of 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 by a student, or that another school employee or a student with whom the employee comes in contact has abused a child, shall immediately report the information to:

(A) The person designated in the policy adopted under ORS 339.372; 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 the person designated in the policy adopted under ORS 339.372.

(2) A person 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 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 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 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 abuse, whether abuse occurred.

(5) If, following an investigation, an education provider determines that a report of suspected abuse or sexual conduct by a school employee 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 (8) of this section and ORS 339.378.

(6)(a) Notwithstanding the requirements of subsections (3), (4) and (5) of this section, an education provider that is a private school:

(A) May discipline or terminate a school employee according to:

(i) The provisions of subsections (3) and (4) of this section; or

(ii) The standards and policies of the private school if the standards and policies provide the same or greater safeguards for the protection of children compared to the safeguards described in subsections (3) and (4) of this section.

(B) May follow the procedures described in subsection (5) of this section or may follow any appeals process established by the private school related to suspected child abuse or sexual conduct.

(b) A private school that chooses to discipline or terminate a school employee according to the standards and policies of the school must provide the information required to be disclosed under ORS 339.378.

(7) 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 abuse by a school employee or former school employee.

(8)(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.

(9) Prior to disclosure of a disciplinary record under subsection (8) 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; 2012 c.92 §4; 2013 c.553 §1]

**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 abuse or sexual conduct or relating to a substantiated report of abuse or sexual conduct by a current or former employee;

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

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

(d) Requires the education provider to expunge substantiated information about 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 abuse or sexual conduct; or

(b) An appeal process from the determination by an education provider that a report of abuse or sexual conduct has been substantiated as provided in ORS 339.388 (5). [2009 c.93 §10; 2012 c.92 §7]

**Note:** See note under 339.374.

**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]

**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 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 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 abuse and sexual conduct available each school year to children who attend a school operated by the education provider. [Formerly 339.377; 2012 c.92 §8]

**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]

**339.430** [Formerly 326.058; 2001 c.104 §114; 2001 c.368 §1; 2003 c.184 §1; repealed by 2011 c.313 §25]

## INTERSCHOLASTIC ACTIVITIES

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

**339.460 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 stan-

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

**339.520 Information required on certain students who withdraw from school.** The minimum information to be reported on students who withdraw from school 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 for ORS 339.650 to 339.665.** 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 the establishment of a process by which the parent or guardian of a student may request in writing that backup prescribed autoinjectable epinephrine be kept at a reasonably secure location in a student’s classroom if:

(A) The location identified under paragraph (d) of this subsection is not the student’s classroom; and

(B) A licensed health care professional verifies in writing that lack of immediate access to autoinjectable epinephrine may be life threatening to the student;

(f) 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

(g) 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; 2013 c.318 §1]

**339.867 “Medication” defined for ORS 339.869 and 339.870.** As used in ORS 339.869 and 339.870, “medication” means medication that is not injected, except for premeasured doses of epinephrine that are injected. [1997 c.144 §1; 2013 c.486 §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:

(a) 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.

(b) Rules for the administration of premeasured doses of epinephrine by school personnel trained as provided by ORS 433.815 to any student or other individual on school premises who the personnel believe in good faith is experiencing a severe allergic reac-

tion, regardless of whether the student or individual has a prescription for epinephrine.

(c) Guidelines for the management of students with life-threatening food allergies, which must include:

(A) Standards for the education and training of school personnel to manage students with life-threatening allergies.

(B) Procedures for responding to life-threatening allergic reactions.

(C) A process for the development of individualized health care and allergy plans for every student with a known life-threatening allergy.

(D) Protocols for preventing exposures to allergens.

(2)(a) School district boards shall adopt policies and procedures that provide for:

(A) The administration of prescription and nonprescription medication to students by trained school personnel;

(B) Student self-medication; and

(C) The administration of premeasured doses of epinephrine to students and other individuals.

(b) Policies and procedures adopted under paragraph (a) of this subsection 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; 2013 c.486 §2]

**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 or for student or individual unable to self-administer 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, if the medication is available to the student pursuant to written permission and instructions of the student's parent, guardian or Oregon licensed health care professional.

(2) 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 the use of medication if the school administrator, school nurse, teacher or other school employee in good faith administers autoinjectable epinephrine to a student or other individual with a severe allergy who is unable to self-administer the medication, regardless of whether the student or individual has a prescription for epinephrine.

(3) A school district and the members of a school district board are not liable in a criminal action or for civil damages as a result of the use of medication if:

(a) Any person in good faith administers autoinjectable epinephrine to a student or other individual with a severe allergy who is unable to self-administer the medication, regardless of whether the student or individual has a prescription for epinephrine; and

(b) The person administered the autoinjectable epinephrine on school premises, including at a school, on school property under the jurisdiction of the district or at an activity under the jurisdiction of the school district.

(4) 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; 2013 c.318 §2; 2013 c.486 §9]

**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 and public charter school governing body shall:

(a) Procure a United States flag and an Oregon State flag of suitable sizes and shall cause the flags to be displayed upon or near each school building under the control of the board or used by the governing body:

(A) During school hours, except in unsuitable weather; and

(B) At any other time the board or the governing body deems proper.

(b) Procure United States flags of a suitable size for classrooms and cause a flag to be displayed in each classroom in each school building under the control of the board or used by the governing body.

(c) 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) Notwithstanding subsection (1)(a) of this section, a public charter school governing body is required to procure and display

a flag upon or near a public charter school building only if:

(a) The public charter school is located in a public building; or

(b) The public charter school is located in a private building and proper equipment is readily available for the purpose of displaying the flag.

(3) 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; 2013 c.466 §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 certain facilities.**

(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 public university listed in ORS 352.002. [Formerly 336.440 and then 336.610; 2011 c.637 §119]

**339.890 Radio frequency identification device policy for students; rules.** (1) The State Board of Education shall adopt by rule standards for a school district board to incorporate into any policy that requires a student to wear, carry or use an item with a radio frequency identification device for the purpose of locating or tracking the student or taking attendance.

(2) Rules adopted as provided by subsection (1) of this section must establish standards that:

(a) Protect student privacy and ensure security;

(b) Require notification to students and parents about the use of radio frequency identification devices; and

(c) Allow a student or a parent of a student to choose not to have the student wear, carry or use an item with a radio frequency identification device.

(3) Any policy adopted by a school district board that requires a student to wear, carry or use an item with a radio frequency identification device for the purpose of locating or tracking the student or taking attendance must incorporate the standards adopted by the State Board of Education. [2013 c.427 §1]

**Note:** Section 2, chapter 427, Oregon Laws 2013, provides:

**Sec. 2.** (1) Notwithstanding section 1 of this 2013 Act [339.890], the State Board of Education is not required to adopt the rules described in section 1 of this 2013 Act unless a school district board provides notice to the State Board of Education that the school district board intends to adopt a policy that requires a student to wear, carry or use an item with a radio frequency identification device for the purpose of locating or tracking the student or taking attendance.

(2) A school district board may not adopt a policy that requires a student to wear, carry or use an item with a radio frequency identification device for the purpose of locating or tracking the student or taking attendance until the State Board of Education adopts the rules described in section 1 of this 2013 Act. [2013 c.427 §2]

**339.925** [1993 c.413 §4; 1995 c.116 §1; 1999 c.1051 §112; 2011 c.597 §132; renumbered 339.095 in 2013]

## 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]

