

## Chapter 339

### 1999 EDITION

#### School Attendance; Admission; Discipline; Safety

##### GENERAL PROVISIONS

339.005 Definition for ORS 339.040 and 339.125

##### COMPULSORY SCHOOL ATTENDANCE

339.010 School attendance required; age limits

339.020 Duty to send children to school

339.030 Exemptions from compulsory school attendance

339.035 Teaching by private teacher, parent or guardian; notice; examination; effect of low or declining score

339.040 Attendance supervisors; appointment; compensation

339.055 Duties of attendance supervisors

339.065 Estimates of attendance; irregular attendance; excused absences

339.080 Nonattendance notice to parents, school officials and parole or probation officer

339.090 Determination of compliance; notice to district superintendent

##### ADMISSION OF STUDENTS

339.115 Admission of students; waiver; denial

339.125 Admission of nonresident pupils; costs

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

##### RESIDENCY

339.133 Residency of student for school purposes; how determined

339.134 Residency of child with disability

339.137 Residency of student at youth care center

##### TUITION AND FEES

339.141 Tuition prohibited for regular school program; other programs

339.147 When tuition authorized; waiver of tuition and fees

339.155 Prohibitions of certain fees as condition of admission; allowable fees

## STUDENT CONDUCT AND DISCIPLINE

- 339.240 Rules of student conduct, discipline and rights; duties of state board and district school boards
- 339.250 Duty of student to comply with rules; discipline, suspension, expulsion, removal and counseling; written information on alternative programs required
- 339.252 Child with disability continues to be entitled to free appropriate public education if removed for disciplinary reasons; due process procedures
- 339.254 Suspension of student driving privileges allowed; policy content
- 339.257 Documentation of enrollment status for students applying for driving privileges; notification of student withdrawal from school to Department of Transportation
- 339.260 Withholding records until property damage or fees paid; liability of parent; waiver; rules; inspection
- 339.270 Assessment of costs of school property damage against responsible student or parents or guardian; action to recover; limitation
- 339.280 Student grading policies; consideration of attendance allowed; policy content

## SCHOOL SAFETY

- 339.312 Safe school alliance
- 339.315 Report required if person has possession of unlawful firearm or destructive device; immunity; law enforcement investigation required
- 339.317 Notice to school district of person charged with crime; immunity
- 339.319 Notice to school district of person convicted of crime; immunity
- 339.321 Notice to school district and law enforcement agencies of release or discharge of person; immunity
- 339.323 Disclosure of information regarding person charged with or convicted of crime or regarding release or discharge of person; immunity
- 339.325 Notification required if name appears on targeted threatening list or when threats of violence or harm made; civil immunity
- 339.327 Notification required if person possesses weapon and threatening list; immunity

## RELIGIOUS INSTRUCTION

- 339.420 Child excused to receive religious instruction

## INTERSCHOLASTIC ACTIVITIES

- 339.430 Approval of voluntary organizations to administer interscholastic activities required; suspension or revocation of approval; appeal of organization's ruling
- 339.450 Prohibited grounds for denying participation in interscholastic athletics

339.460 Home school students authorized to participate in interscholastic activities; conditions

## STUDENT ACCOUNTING SYSTEM

339.505 Definitions for ORS 339.505 to 339.520

339.510 Student accounting system; goals

339.515 Uniform reporting system; training and technical assistance in using system

339.520 Information required on certain students who withdraw from school

## TRAFFIC PATROL

339.650 “Traffic patrol” defined

339.655 Traffic patrols authorized; medical benefits; rules

339.660 Rules on traffic patrols; eligibility; authority

339.665 Intergovernmental cooperation and assistance in connection with traffic patrols

## MISCELLANEOUS

339.860 Issuance of diploma for work completed at certain state institutions

339.865 Possession of tobacco products by person under 18 prohibited at facilities; “facility” defined to include public schools

339.867 “Medication” defined

339.869 Administration of medication to students

339.870 Liability of school personnel administering medication

339.875 Procurement, display and salute of flags

339.880 Unauthorized soliciting of pupils prohibited

339.885 Secret societies in public schools prohibited; membership grounds for suspension or expulsion

## ENFORCEMENT

339.925 Compulsory school attendance violation procedure

## PENALTIES

339.990 Penalties

## CROSS-REFERENCES

Action for reckless disclosure of certain information from student's records, 30.864

Private schools offering residential programs for children, inspection and review, 418.327

School administrator as guardian of minor child upon appointment by parent, 109.056

339.020

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

339.115

Tuition for special education programs prohibited, 343.085

339.240

Hearing to expel minor student, 332.061

339.250

Use of reasonable force on students, 161.205

339.270

Parental liability for torts of child, 30.765

**Note:** The name of the Department of Human Resources has been changed to the Department of Human Services and the title of the Director of Human Resources to the Director of Human Services. The name and title changes become operative on July 1, 2000. See sections 10 and 11, chapter 421, Oregon Laws 1999. References to the department and the director in this chapter use the name and the title that become operative on July 1, 2000.

## 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, of the county school district or of a common school district which includes an entire county. [1965 c.100 s.273; 1973 c.728 s.3; 1987 c.158 s.56; 1991 c.167 s.23]

## COMPULSORY SCHOOL ATTENDANCE

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

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

**339.030 Exemptions from compulsory school attendance.** (1) In the following cases, children shall 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 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.

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

(e) 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, or enrolled in a community college or other state-registered alternative education program. Such exemption also may be granted to any child who is an emancipated minor or who has initiated the procedure for emancipation under ORS 419B.550 to 419B.558. [Amended by 1965 c.100 s.276; 1967 c.67 s.8; 1971 c.494 s.1; 1973 c.728 s.1; 1985 c.579 s.1; 1989 c.619 s.1; 1993 c.546 s.138; 1995 c.769 s.2; 1999 c.59 s.85; 1999 c.717 s.1]

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

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

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

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

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

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

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

(c) The person administering the examination shall:

(A) Score the examination; and

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

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

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

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

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

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

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

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

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

(c) If the parent or legal guardian of the child does not consent to placing the education of the child under the supervision of a licensed teacher who is selected by the parent or legal guardian, then the superintendent of the

education service district may order the child to return to school for a period not to exceed 12 consecutive months as determined by the superintendent.

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

(5)(a) Notwithstanding the examination requirements of subsections (3) and (4) of this section, the parent or legal guardian of a child with disabilities who has an individualized education plan and is receiving special education and related services through the school district or who is being educated in accordance with a privately developed plan shall be evaluated for satisfactory educational progress according to the recommendations of the plan.

(b) The parent or legal guardian of a child with disabilities 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 disabilities described in this subsection shall not be subject to the examination requirements of subsections (3) and (4) of this section unless the examination is recommended in the plan in effect for the child. [1985 c.579 s.2; 1989 c.619 s.4; 1999 c.717 s.1a]

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

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

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

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

**339.050** [Amended by 1965 c.100 s.278; repealed by 1965 c.136 s.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 s.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 s.281; 1973 c.728 s.4; 1987 c.158 s.57; 1993 c.45 s.114]

**339.070** [Repealed by 1963 c.544 s.52]

**339.080 Nonattendance notice to parents, school officials and parole or probation officer.** (1) Except as

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

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

(3) If the child who is the subject of a notice under subsection (1) of this section is a youth offender on parole or probation, at the same time notice is given to the parent or other person, the attendance supervisor shall notify the child's parole or probation officer of the child's absence. [Amended by 1965 c.100 s.282; 1993 c.45 s.115; 1999 c.963 s.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 s.283; 1993 c.413 s.2]

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

**339.110** [Repealed by 1965 c.100 s.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 residing therein. The person whose 19th birthday occurs during the school year shall continue to be eligible for a free and appropriate public education for the remainder of the school year. However, a district school board may admit other nonresident persons, determine who is not a resident of the district and may fix rates of tuition for nonresidents.

(2) 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 regular high school diploma; or
- (b) Shown to be in need of additional education in order to receive a 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 343.149.
- (4) For purposes of subsection (3) of this section, "adult correctional facility" means:
- (a) A local correctional facility as defined in ORS 169.005;
  - (b) A regional correctional facility as defined in ORS 169.620; or
  - (c) A Department of Corrections institution as defined in ORS 421.005.

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

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

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

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

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

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

(9) A child entering the first grade during the fall term shall be considered to be six years of age if the sixth birthday of the child occurs on or before September 1. A child entering kindergarten during the fall term shall be considered to be five years of age if the fifth birthday of the child occurs on or before September 1. However, nothing in this section prevents a district school board from admitting free of charge a child whose needs for cognitive, social and physical development would best be met in the school program, as defined by policies of the district school board, to enter school even though the child has not attained the minimum age requirement but is a resident of the district. [1965 c.100 s.285; 1971 c.410 s.1; 1977 c.463 s.1; 1983 c.193 s.1; 1987 c.283 s.2; 1989 c.132 s.1; 1989 c.215 s.1; 1991 c.693 s.26; 1995 c.656 s.1; 1995 c.660 s.46; 1996 c.16 s.1; 1999 c.989 s.1]

**Note:** Section 1a, chapter 989, Oregon Laws 1999, provides:

**Sec. 1a.** (1) The amendments to ORS 339.115 by section 1 of this 1999 Act do not apply to:

(a) Individuals who, on the effective date of this 1999 Act [August 20, 1999], have not yet attained 21 years of age, are receiving special education and have received a regular high school diploma; and

(b) Individuals 18 through 21 years of age with disabilities who are incarcerated in an adult correctional facility on the effective date of this 1999 Act.

(2) This section is repealed January 1, 2006. [1999 c.989 s.1a]

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

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

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

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

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

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

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

(5) As used in this section:

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

(b) "Regional correctional facility" means a regional correctional facility as defined in ORS 169.620. [1996 c.19



s.1; 1999 c.989 s.2]

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

## RESIDENCY

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

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

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

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

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

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

(7) For the purposes of subsection (4) of this section, "substitute care program" means family foster care, family group home care, parole foster care, family shelter care, adolescent shelter care and professional group care. [Formerly 332.595; 1997 c.821 s.21]

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

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

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

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

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

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

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

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

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

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

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

**339.135** [1965 c.100 s.287; 1967 c.507 s.6; repealed by 1993 c.45 s.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, 343.975 and 346.010, the school district shall provide or cause to be provided appropriate education to any student described in subsection (1) of this section, including the identification and evaluation of the student for purposes of determining eligibility as a child with disabilities to receive special education and related services enumerated in ORS 343.035 and 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 s.119; 1999 c.989 s.34]

**339.140** [Repealed by 1965 c.100 s.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 s.31; 1999 c.328 s.12]

**Note:** The amendments to 339.141 by section 12, chapter 328, Oregon Laws 1999, take effect March 1, 2000. See section 17, chapter 328, Oregon Laws 1999. The text that is effective until March 1, 2000, including amendments by section 31, chapter 200, Oregon Laws 1999, 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 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 driver instruction, which are not a part of the regular school program. Tuition charges, if made, shall not exceed the estimated cost to the district or public charter school of furnishing the program, class or course of study.

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

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

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

**339.145** [1965 c.100 s.288; 1967 c.67 s.9; 1971 c.494 s.2; repealed by 1993 c.45 s.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 State Office for Services to Children and Families unless funds are available therefor in the court's, authority's or office'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 s.99; 1999 c.200 s.32; 1999 c.328 s.13]

**Note:** The amendments to 339.147 by section 13, chapter 328, Oregon Laws 1999, take effect March 1, 2000. See section 17, chapter 328, Oregon Laws 1999. The text that is effective until March 1, 2000, including amendments by section 32, chapter 200, Oregon Laws 1999, is set forth for the user's convenience.

**339.147.** (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 driver instruction, from a pupil who is a member of a low-income family in an amount in excess of what the low-income family may receive as money specifically to be used for payment of such tuition.

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

(2) A family that does not qualify under subsection (1) of this section but believes the payment of school tuition is a severe hardship may request the district school board 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 State Office for Services to Children and Families unless funds are available therefor in the court's, authority's or office'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).

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

**339.155 Prohibitions of certain fees as condition of admission; allowable fees.** (1) No district school board or public charter school as defined in ORS 338.005 shall require payment of fees as a condition of admission to those pupils entitled under the law to free admission. However, the following are not considered as conditions of admission:

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

(b) No charge shall be made for a standard, prescribed textbook but a security deposit may be required which may be refunded if the textbook is returned in usable condition. Supplemental texts shall be made available on loan.

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

(2) A district school board 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 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 fee not to exceed the rental cost to the district or public charter school or the annual depreciation plus actual maintenance cost for each instrument; except that children exempt from tuition under ORS 339.147 shall be loaned musical instruments by the school district or public charter school without charge.

(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 s.1; 1977 c.99 s.1; 1977 c.815 s.3; 1999 c.200 s.33]

**339.160** [Repealed by 1965 c.100 s.456]

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

**339.170** [Repealed by 1965 c.100 s.456]

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

**339.180** [Repealed by 1965 c.100 s.456]

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

**339.190** [Repealed by 1965 c.100 s.456]

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

**339.200** [Repealed by 1965 c.100 s.456]

**339.205** [1991 c.833 s.1; 1993 c.18 s.90; 1993 c.33 s.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 183.310 to 183.550 shall adopt rules setting minimum standards for pupil conduct and discipline and for rights and procedures pertaining thereto that are consistent with orderly operation of the educational processes and with fair hearing requirements. The rules shall be distributed by the Superintendent of Public Instruction to all school districts.

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

(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 disabilities under ORS 343.035. [1971 c.561 ss.2,3; 1993 c.45 s.123; 1999 c.726 s.1]

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

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

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

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

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

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

(B) Placing the student in a setting where the behavior will receive immediate attention, including, but not limited to, the office of the school principal, vice principal, assistant principal or counselor or a school psychologist licensed by the Teacher Standards and Practices Commission or the office of any licensed mental health professional.

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

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

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

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

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

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

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

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

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

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

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

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

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

- (A) “Firearm” as defined in 18 U.S.C. 921;
- (B) “Dangerous weapon” as defined in ORS 161.015; or
- (C) “Deadly weapon” as defined in ORS 161.015.

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

- (a) The name of each school;
- (b) The number students expelled from each school; and
- (c) The types of weapons involved.

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

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

- (a) When a student is expelled pursuant to subsection (4) of this section;
- (b) Following a second or subsequent occurrence within any three-year period of a severe disciplinary problem with a student;

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

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

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

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

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

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

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

- (A) The use of physical force authorized by ORS 161.205 for the reasons specified therein; or
- (B) Physical pain or discomfort resulting from or caused by participation in athletic competition or other such recreational activity, voluntarily engaged in by a student. [1965 c.100 s.289; 1971 c.561 s.1; 1975 c.665 s.1; 1979 c.739 s.1a; 1979 c.836 s.2; 1981 c.246 s.2; 1989 c.619 s.2; 1989 c.889 s.1; 1995 c.656 s.2; 1996 c.16 s.2; 1999 c.59 s.86; 1999 c.576 s.1; 1999 c.717 s.4]

**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 (2)(c) or (d).

(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 disabilities even if the basis for expulsion was a weapon violation pursuant to ORS 339.250 (6). [1999 c.989 s.4]

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

**339.254 Suspension of student driving privileges allowed; 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 requirement that a superintendent or the school district 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 only if the student is at least 15 years of age and:

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

(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.

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

(c) A requirement that the school superintendent or board may 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 requirement 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 or the right to apply for driving privileges, those privileges shall 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 s.5]

**339.255** [1979 c.836 s.3; 1981 c.246 s.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 s.4]

**Note:** 339.257 becomes operative September 1, 2000. See section 7, chapter 789, Oregon Laws 1999.

**339.260 Withholding records until property damage or fees paid; liability of parent; waiver; rules;**

**inspection.** (1) Any school district which is owed a fee or the property of which has been lost or willfully damaged or injured may withhold the grade reports, diploma or records of the student who owes the fee or is responsible for the loss or damage until the student or the parent or guardian of the student has paid the amount owed.

(2) When the student or the parent or guardian of the student is unable to pay the amount owed under subsection (1) of this section, the school district may waive the amount owed.

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

(4) Notwithstanding subsections (1) and (2) of this section, a school district shall not withhold the education records of a student in the circumstances described in ORS 326.575 and applicable rules of the State Board of Education or when such records are requested for use in the appropriate placement of the student.

(5) Before any grade reports, diplomas or records are withheld under subsections (1) or (2) of this section, a school district board of directors shall adopt rules of procedure which ensure that the rights of the student to due process are protected.

(6) Nothing in subsection (1) of this section is intended to prevent inspection of student education records by a parent or legal guardian pursuant to ORS 343.173, the rules of the State Board of Education and applicable state and federal law. [1965 c.100 s.290; 1971 c.561 s.4; 1985 c.514 s.1; 1993 c.806 s.5; 1995 c.656 s.3]

**339.270 Assessment of costs of school property damage against responsible student or parents or guardian; action to recover; limitation.** (1) The amount of damage to any school property shall be determined by procedures established by the district school board and they may be assessed against the pupil willfully causing the injury or damage and against the parent or parents having legal custody of the pupil or against the legal guardian of the pupil.

(2) If the assessed damages are not paid as demanded, the district school board, in addition to any other remedy provided by law, may bring an action under this section against the pupil and against the parent or parents having legal custody of the pupil or against the legal guardian of the pupil in a court of competent jurisdiction for the amount of the assessed damages not to exceed \$5,000 plus costs. [1971 c.561 s.5; 1975 c.712 s.2; 1977 c.419 s.2; 1993 c.45 s.124]

**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 s.4]

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

## SCHOOL SAFETY

**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 s.2]

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



director's designee, who has reasonable cause to believe that the person, while in a school, is or within the previous 120 days has been in possession of a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382, shall promptly report the person's conduct to a law enforcement agency within the county. If the school administrator, school director or employee has reasonable cause to believe that a person has been in possession of a firearm or destructive device as described in this paragraph more than 120 days previously, the school administrator, school director or employee may report the person's conduct to a law enforcement agency within the county.

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

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

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

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

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

(b) The grounds adjacent to the institution; and

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

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

**339.317 Notice to school district of person charged with crime; immunity.** (1) No later than 15 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, shall notify the school district in which the person resides of that fact. The district attorney or city attorney shall include in the notice the crime with which the person is charged.

(2) A district attorney, city attorney or anyone employed by or acting on behalf of a district attorney or city attorney who sends records under this section is not liable civilly or criminally for failing to disclose the information under this section. [1999 c.620 s.1]

**339.319 Notice to school district of person convicted of crime; immunity.** (1) 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 shall notify the school district in which the person resides of that fact within five days following sentencing. The agency supervising the person shall include in the notice:

(a) The crime of conviction;

(b) The sentence imposed; and

(c) If the person is released on any type of release, whether school attendance is a condition of the release.

(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 liable civilly or criminally for failing to disclose the information under this section. [1999 c.620 s.2]

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

**339.321 Notice to school district and law enforcement agencies of release or discharge of person; immunity.** (1) No later than 15 days prior to 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, as appropriate, 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 district in which the person is going to reside.

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

- (a) The person's name and date of release or discharge;
- (b) The type of supervision under which the person is released; and
- (c) Whether school attendance is a condition of release.

(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 liable civilly or criminally for failing to disclose the information under this section. [1999 c.620 s.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 district receives notice under ORS 339.317, 339.319, 339.321 or 420A.122, the school district may disclose the information only to those school employees the district 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 district or anyone employed by or acting on behalf of a school district who receives notice under ORS 339.317, 339.319, 339.321 or 420A.122 is not liable civilly or criminally for failing to disclose the information. [1999 c.620 s.6]

**339.325 Notification required if name appears on targeted threatening list or when threats of violence or harm made; civil immunity.** (1) School districts shall notify:

- (a) The parent of a student:
  - (A) When the student's name appears on a targeted list that threatens violence or harm to the students on the list; or
  - (B) When threats of violence or harm to the student are made by another student; and
- (b) Any school employee whose name appears on a targeted list threatening violence or harm to the school employee.

(2) School districts shall attempt to notify the persons specified in subsection (1) of this section by telephone or in person within 12 hours of discovering the targeted list or learning of the threat. School districts shall follow up this notice with a written notification sent within 24 hours of discovering the targeted list or learning of the threat.

(3) School districts, school district boards and public school officials providing notice as required by subsection (1) of this section shall not be held liable for any civil claim arising out of the notification. [1999 c.576 s.2]

**339.327 Notification required if person possesses weapon and threatening list; immunity.** (1) A superintendent of a school district who has reasonable cause to believe that a person, while in a school, is or has been in possession of a weapon while also being 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) The superintendent shall attempt to notify the persons specified in subsection (1) 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 shall follow up the notice with a written notification sent within 24 hours after discovering the list or learning of the threat.

(3) Anyone 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.

(4) As used in this section, "school" has the meaning given that term in ORS 339.315. [1999 c.577 s.13]

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

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

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

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

**339.410** [1965 c.100 s.297; repealed by 1979 c.228 s.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 s.298; 1973 c.827 s.32; 1977 c.276 s.1]

## INTERSCHOLASTIC ACTIVITIES

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

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

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

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

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

(a) The student must 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 home school 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 home schooled 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 home school student for the duration of the school year in which the student becomes academically ineligible and for the following year. The student must take the required 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 home school student shall be required to fulfill the same responsibilities and standards of behavior and performance, including related class or practice requirements, of other students participating in the interscholastic activity of the team or squad and shall be required to meet the same standards for acceptance on the team or squad. The home school student must also comply with all public school requirements during the time of participation.

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

(2) As used in this section:

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

(b) "Home school students" are those children taught by private teachers, 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 ss.1,2; 1999 c.717 s.2]

## STUDENT ACCOUNTING SYSTEM

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

(a) "Graduate" means an individual who has not reached 21 years of age or whose 21st birthday occurs during the current school year; has met all state requirements and local requirements for attendance, competence and units of credit for high school; and has received one of the following:

(A) A high school diploma issued by a school district.

(B) An adult high school diploma issued by an authorized community college.

(C) A modified high school diploma based on the successful completion of an individual education plan.

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

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

(B) Is not a high school graduate;

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

(B) Student is deceased.

(C) Student is participating in home instruction paid for by the district.

(D) Student is being taught by a private teacher, parent or legal guardian pursuant to ORS 339.030 (1)(c) or (d).

(E) Student is participating in a Department of Education approved public or private education program, including an alternative education program, a Department of Human Services facility or a hospital education program.

(F) Student is temporarily residing in a shelter care program certified by the Oregon Youth Authority or the State Office for Services to Children and Families or in a juvenile detention facility.

(G) Student is enrolled in a foreign exchange program.

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

(I) Student 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 programs under ORS 336.615 to 336.665 and the standards for excused absences for purposes of ORS 339.065 for family emergencies and health and medical problems. [1991 c.805 s.4; 1993 c.676 s.51; 1997 c.89 s.1; 1997 c.249 s.100; 1999 c.59 s.87; 1999 c.717 s.5]

**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 s.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 s.2]

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

- (1) Age, sex and racial-ethnic designation of the student;
- (2) Date of withdrawal;
- (3) Reason for withdrawal, including but not limited to expulsion, work or death;
- (4) Number of credits earned toward meeting graduation requirements, if applicable, or grade level, of the reporting district;
- (5) Length of time the student was enrolled in the reporting district;
- (6) Information relating to the disposition of the student after withdrawing, including but not limited to 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 s.3; 1997 c.249 s.101]

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

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

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

**339.623** [Formerly 343.187; renumbered 336.640 in 1993]

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

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

**339.640** [Formerly 339.255; renumbered 336.665 in 1993]

## TRAFFIC PATROL

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

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

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

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

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

(2) A member of a traffic patrol:

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

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

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

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

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

## MISCELLANEOUS

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

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

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

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

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

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

**339.867 "Medication" defined.** As used in ORS 339.869 and 339.870, "medication" means noninjectable medication. [1997 c.144 s.1]

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

(2) School district boards shall adopt policies and procedures that provide for the administration of prescription and

nonprescription medication to students by trained school personnel and for student self-medication. Such policies and procedures shall be consistent with the rules adopted by the State Board of Education under subsection (1) of this section. A school district board shall not require school personnel who have not received appropriate training to administer medication. [1997 c.144 s.4]

**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:

(a) Is trained in administering nonprescription medication; and  
(b) 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:

(a) Is trained in administering prescription medication; and  
(b) In compliance with the instructions of a physician, physician assistant or nurse practitioner, 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 s.2]

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

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

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

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

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

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

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

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

## ENFORCEMENT

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

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

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

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

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

violation;

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

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

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

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

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

(4) All fines and court costs recovered from compulsory school attendance violations shall be paid to the clerk of the court involved. After deductions of court costs provided by law for the proceeding, the clerk shall pay the remainder of the money to the State Treasurer to be deposited in the Criminal Fine and Assessment Account in the General Fund. [1993 c.413 s.4; 1995 c.116 s.1; 1999 c.1051 s.112]

## PENALTIES

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

---

## CHAPTER 340

[Reserved for expansion]