

Chapter 353

1999 EDITION

Oregon Health Sciences University

GENERAL PROVISIONS

- 353.010 Definitions
- 353.020 Oregon Health Sciences University as public corporation; establishment; status
- 353.030 Public policy of university; missions; purposes
- 353.035 Certain laws to be liberally construed; severability

BOARD OF DIRECTORS

- 353.040 Board of directors; appointment; membership; meetings; removal of members
- 353.050 Powers and duties of board and university officials
- 353.060 President of university
- 353.070 Products of disabled individuals; duties of university; publication of product sources
- 353.080 Report on activities and operations

AUTHORITY AND DUTIES

- 353.100 Applicability of laws to university
- 353.108 Real property and facilities utilized by university; legal title; lease; management
- 353.110 Authority to acquire private property; condemnation
- 353.120 Adoption of alcohol and drug abuse policy
- 353.130 Public contracts
- 353.140 Funding request; budget
- 353.160 Audits
- 353.180 Student education records; creation; use; custody; disclosure
- 353.190 Effect of student religious beliefs on admission and attendance
- 353.210 Physical access committee; members; duties

PERSONNEL

- 353.250 Alternative retirement programs

- 353.260 Personnel records; access; control; creation
- 353.270 Compensation of officers and employees; conflicts of interest
- 353.280 Faculty; status; powers
- 353.290 Reductions in faculty; affirmative action plans and goals
- 353.300 Political or sectarian test prohibited in appointment of faculty or employees

## FINANCE

### (Generally)

- 353.330 Effect of law on bonds, certificates of participation or agreements for borrowing money; responsibility for payment; rights of holders of obligations

### (Bonds)

- 353.340 Issuance and sale of revenue bonds by university
- 353.350 Revenue bonds considered bonds or obligations of political subdivision
- 353.360 Authority of university to issue refunding bonds and advance refunding bonds
- 353.370 Notice to Legislative Assembly required if shortfall in moneys exists for payment of amounts under bonds, certificates of participation or agreements for borrowing money

### (Financial Agreements)

- 353.380 Definitions for ORS 353.380 to 353.420
- 353.390 University authorized to enter into financing agreements; limitations
- 353.400 Delegation of board authority
- 353.410 University powers regarding financing agreements and credit enhancement agreements
- 353.420 Effect of financing agreement on tax status

## PROGRAMS

- 353.440 Coordination of programs with State System of Higher Education
- 353.450 Area Health Education Center program; continuing education programs for physicians in rural areas; emergency medical technician training in rural areas
- 353.460 Center for Research on Occupational and Environmental Toxicology
- 353.470 Funding of center
- 353.480 Pediatric dental residency program

(Provisions referred to the people at the general election to be held on November 7, 2000, relating to the Oregon Health Sciences University Medical Research Partnership financed with moneys paid to Oregon under the Master Settlement Agreement of 1998 are compiled as notes following ORS 353.480)

## CROSS-REFERENCES

Alzheimer's Disease Research Fund, 431.855, 431.860

Athlete agents for students:

Civil remedies available against agents and students, 702.057

Permit requirement, 702.012

Children in hospitals and clinics, costs and oversight of educational programs, 343.261

Community colleges, Ch. 341

Contracting with community college district for educational services, 341.440

Crime detection laboratory at Oregon Health Sciences University, 181.080

Demonstrator of Anatomy, authority in disposing of body of deceased indigent, 97.170

Disability of Governor, conference to determine, dean of Oregon Health Sciences University as member, 176.040

Drug and alcohol abuse, assessment and treatment, curriculum, 430.930

Emergency Medical Services Enhancement Account distributions, 442.625

Employees:

Eligibility to participate in group benefit plans, 243.107

Membership in Public Employees Retirement System, 238.015

Supplemental retirement benefits, 243.910 to 243.940

Tax-sheltered annuities, 243.810 to 243.830

Financial support for post-secondary students, commission created to study, 1999 c.1070 s.6

Indigent children, treatment at Oregon Health Sciences University, 444.120

Liability for medical treatment within scope of duties, 30.267, 30.268

Loans and scholarships, Ch. 348

Poison Prevention Task Force created in Poison Center of Oregon Health Sciences University, 431.870 to 431.915

Public meetings law does not apply to certain meetings of Oregon Health Sciences University Board of Directors, 192.690

Public records, certain records of Oregon Health Sciences University exempt from disclosure, 192.502

Rural medical practice, recruitment by Oregon Health Sciences University, 442.565

Services for children with special health needs, 444.030

State and independent institutions of higher education generally, Ch. 352

State System of Higher Education, 352.002

Western Regional Higher Education Compact, 351.780

## GENERAL PROVISIONS

**353.010 Definitions.** As used in this chapter:

(1) “Board” means the Oregon Health Sciences University Board of Directors established under ORS 353.040.

(2) “Public corporation” means an entity that is created by the state to carry out public missions and services. In order to carry out these public missions and services, a public corporation participates in activities or provides services that are also provided by private enterprise. A public corporation is granted increased operating flexibility in order to best ensure its success, while retaining principles of public accountability and fundamental public policy. The board of directors of a public corporation is appointed by the Governor and confirmed by the Senate but is otherwise delegated the authority to set policy and manage the operations of the public corporation.

(3) “University” or “Oregon Health Sciences University” means the Oregon Health Sciences University public corporation created under ORS 353.020. [1995 c.162 s.1; 1999 c.291 s.1]

**353.020 Oregon Health Sciences University as public corporation; establishment; status.** Oregon Health Sciences University is established as a public corporation and shall exercise and carry out all powers, rights and privileges that are expressly conferred upon it, are implied by law or are incident to such powers. The university shall be a governmental entity performing governmental functions and exercising governmental powers. The university shall be an independent public corporation with statewide purposes and missions and without territorial boundaries. The university shall be a governmental entity but shall not be considered a unit of local or municipal government or a state agency for purposes of state statutes or constitutional provisions. [1995 c.162 s.2; 1999 c.291 s.2]

**353.030 Public policy of university; missions; purposes.** (1) It shall be the public policy of the Oregon Health Sciences University in carrying out its missions as a public corporation:

(a) To serve the people of the State of Oregon as the primary center for education in the health professions for students of the state and region.

(b) To provide:

(A) An environment that stimulates the spirit of inquiry, initiative and cooperation between and among students, faculty and staff;

(B) Research into the prevention and cure of disease or disability; and

(C) The delivery of health care to contribute to the development and dissemination of new knowledge.

(2) The university will strive for excellence in education, research, clinical practice, scholarship and community service while maintaining compassion, personal and institutional integrity and leadership in carrying out its missions.

(3) The university is designated to carry out the following public purposes and missions on behalf of the State of Oregon:

(a) Provide high quality educational programs appropriate for a health sciences university;

(b) Conduct scientific and biomedical research;

(c) Engage in the provision of inpatient and outpatient clinical care and health care delivery systems throughout the state;

(d) Provide outreach programs in health care education, research and patient care;

(e) Serve as a local, regional and statewide resource for health care providers; and

(f) Continue a commitment to provide health care to the underserved patient population of Oregon.

(4) The university shall carry out the public purposes and missions of this section in the manner that, in the determination of the Oregon Health Sciences University Board of Directors, best promotes the public welfare of the

people of the State of Oregon. [1995 c.162 s.3]

**353.035 Certain laws to be liberally construed; severability.** Chapter 162, Oregon Laws 1995, shall be liberally construed to effect the purposes and intent thereof. If any provision of chapter 162, Oregon Laws 1995, or the application of that provision to any particular circumstance or person, shall be held invalid, the remainder of chapter 162, Oregon Laws 1995, and the application of that provision to circumstances or persons other than those to which it is held invalid shall not be affected thereby. [1995 c.162 s.90]

**Note:** Legislative Counsel has substituted “chapter 162, Oregon Laws 1995,” for the words “this Act” in section 90, chapter 162, Oregon Laws 1995, compiled as 353.035. Specific ORS references have not been substituted pursuant to 173.160. These sections may be determined by referring to the 1995 Comparative Section Table located in Volume 18 of ORS.

## BOARD OF DIRECTORS

**353.040 Board of directors; appointment; membership; meetings; removal of members.** (1) There is established an Oregon Health Sciences University Board of Directors consisting of seven members. The directors, except for the president of the university, shall be appointed by the Governor and shall be confirmed by the Senate in the manner prescribed in ORS 171.562 and 171.565.

(2) Except for the president of the university, the term of office of each nonstudent member is four years. The term of office of the student member is two years. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on October 1 next following. A member is eligible for reappointment for one additional term. If there is a vacancy for any cause, the Governor shall make an appointment to become effective immediately for the unexpired term. The board shall nominate a slate of candidates whenever a vacancy occurs or is announced and shall forward the recommended candidates to the Governor for consideration. To assist the Governor in appointing the student member, the duly organized and recognized entity of student government shall submit a list of nominees to the Governor for consideration.

(3) The membership of the board shall be as follows:

(a) One representative who is a nonstudent member of the State Board of Higher Education.

(b) Four representatives who, in the discretion of the Governor, have experience in areas related to the university missions or that are important to the success of Oregon Health Sciences University, including but not limited to higher education, health care, scientific research and economic and business development.

(c) One representative who is a student enrolled at the university.

(d) The president of the university, who shall be an ex officio voting member.

(4) Directors must be citizens of the United States. Except for the president of the university, no voting member may be an employee of the university.

(5) The board shall select one of its members as chairperson and another as vice chairperson for such terms and with such duties and powers as the board considers necessary for performance of the functions of those offices. The board shall adopt bylaws concerning how a quorum shall be constituted and when a quorum shall be necessary.

(6) The board shall meet at least once every three months at Oregon Health Sciences University. The board shall meet at such other times and places specified by the chairperson or by a majority of the members of the board.

(7) The Governor may remove any member of the board at any time for cause, after notice and public hearing, but not more than three members shall be removed within a period of four years, unless it is for corrupt conduct in office. [1995 c.162 s.4; 1999 c.291 s.3]

**353.050 Powers and duties of board and university officials.** Except as otherwise provided in this chapter, the Oregon Health Sciences University Board of Directors, or university officials acting under the authority of the board, shall exercise all the powers of the Oregon Health Sciences University and shall govern the university. In carrying out its powers, rights and privileges, the university shall be a governmental entity performing governmental functions and exercising governmental powers. The university or the board may either within or outside the state:

(1) Determine or approve policies for the organization, administration and development of the university.

(2) Appoint and employ any instructional, administrative, professional, trade, occupational and other personnel as are necessary or appropriate to carry out the missions of the university, and prescribe their compensation and terms of office or employment.

(3) Make any and all contracts and agreements, enter into any partnership, joint venture or other business arrangement, create and participate fully in the operation of any business structure, including but not limited to the development of business structures for health care delivery systems and networks with any public or private government, nonprofit or for-profit person or entity that in the judgment of the university or the board is necessary or appropriate to carry out the university's missions and goals.

(4) Acquire, purchase, receive, hold, control, convey, sell, manage, operate, lease, license, lend, invest, improve, develop, use, dispose of and hold title to real and personal property of any nature, including intellectual property, in its own name.

(5) Sue in its own name and be sued, plead and be impleaded in all actions, suits or proceedings in any forum brought by or against it by any and all private or state, local, federal or other public entities, agencies or persons.

(6) Encourage gifts and donations for the benefit of the university, and subject to the terms of the gift, retain, invest and use such gifts as deemed appropriate by the university or the board.

(7) Acquire, receive, hold, keep, pledge, control, convey, manage, use, lend, expend and invest all funds, appropriations, gifts, bequests, stock and revenue from any source to the university.

(8) Borrow money for the needs of the university, in such amounts and for such time and upon such terms as may be determined by the university or the board.

(9) Erect, construct, improve, develop, repair, maintain, equip, furnish, lease, lend, convey, sell, manage, operate, use, dispose of and hold title to buildings, structures and lands for the university.

(10) Purchase any and all insurance, operate a self-insurance program or otherwise arrange for the equivalent of insurance coverage of any nature and the indemnity and defense of its officers, agents and employees or other persons designated by the university to carry out or further the missions of the university.

(11) Create, develop, supervise, control and adopt academic programs, including standards, qualifications, policies or practices relating to admissions, curriculum, academic advancement, grading policy, student conduct, credits and scholarships and the granting of academic degrees, certificates and other forms of recognition.

(12) Authorize, create, eliminate, establish, operate, reorganize, reduce or expand any program, school, institute, health care facility or other unit of operation.

(13) Establish, charge, collect and use charges for enrollment into the university, including charges such as tuition for education and general services, incidental fees and such other charges found by the university to be necessary to carry out its educational programs. Fees realized in excess of amounts allocated and exceeding required reserves shall be considered surplus incidental fees and shall be allocated for programs under the control of the board and found to be advantageous to the cultural or physical development of students of the university upon the recommendation of the recognized student government of the university.

(14) Establish, charge, collect and use charges and fees for university services and the use of university facilities.

(15) Impose charges, fines, fees and such other regulations considered convenient or necessary to control and regulate traffic and parking of vehicles to the same extent allowed the State Board of Higher Education. This authority includes the authority to enforce the regulations of the university in a court to the extent allowed the State Board of Higher Education in enforcing the state board's regulations as provided in ORS 352.360 (7).

(16) Commission as special campus security officers one or more individuals who will have probable cause arrest authority and the accompanying immunities as set forth in ORS 133.310 and 133.315 when acting in the scope of their duties, provided that such individuals are trained and certified by the Department of Public Safety Standards and Training, and provided further that such officers shall not be authorized to carry firearms as police officers and shall not be considered police officers for purposes of ORS 181.610, 238.005, 243.005 or 243.736. The university shall be considered a criminal justice agency for purposes of ORS 181.715 and 181.720.

(17) Enforce and recover for payment to the university any fines that are authorized by this chapter.

(18) Adopt, amend or repeal bylaws, administrative rules, regulations and orders applicable to the matters that are the subject of this chapter.

(19) Contract with any state agency for the performance of such duties, functions and powers as is appropriate. A state agency shall not charge the university for such services an amount that is greater than the actual cost of the services.

(20) Purchase, receive, subscribe for or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, pledge, invest in or otherwise dispose of and deal in or with the shares, stock or other equity or interests in or obligations of any other entity. Separate funds may be established for such investments. The State of Oregon shall have no proprietary or other interest in such investments or such funds.

(21) Make available, by lease or otherwise, or control access to any health care facilities or services or other of its

properties and assets to such persons, firms, partnerships, associations or corporations and on such terms as considered appropriate, charge and collect rent or other fees or charges therefor and terminate or deny any such access or any such lease or other agreement for such reasons as considered appropriate and as may be consistent with its obligations under any such lease or other agreement.

(22) Contract for the operation of any department, section, equipment or holdings of the university and enter into any agreements with any person, firm or corporation for the management by said person, firm or corporation on behalf of the university of any of its properties or for the more efficient or economical performance of clerical, accounting, administrative and other functions relating to its health care facilities.

(23) Select and appoint faculty as medical and dental staff members and others licensed to practice the healing arts, delineate and define the privileges granted each such individual, adopt and direct a plan for faculty clinical income and set the terms and conditions of that plan (including such modifications to any such existing plan as considered necessary or appropriate upon expiration of the term of such plan), and determine the extent to which and the terms upon which each such individual may provide teaching, research, consulting or other services at the university or any other health care facility.

(24) Enter into affiliation, cooperation, territorial, management or other similar agreements with other public or private universities or health care providers for the sharing, division, allocation or furnishing of services on an exclusive or a nonexclusive basis, referral of patients, management of facilities, formation of health care delivery systems and other similar activities.

(25) Perform any other acts that in the judgment of the board or university are requisite, necessary or appropriate in accomplishing the purposes described in or carrying out the powers granted by this chapter.

(26) Exercise these powers, notwithstanding that as a consequence of the exercise of such powers, the university engages in activities that might otherwise be deemed anticompetitive within the contemplation of state or federal antitrust laws. [1995 c.162 s.8; 1997 c.853 s.38; 1999 c.291 s.4]

**353.060 President of university.** The Oregon Health Sciences University Board of Directors shall appoint a president of the university. The president is the president of the faculty and is the executive and governing officer of the university. Subject to the supervision of the board, the president has authority to direct the affairs of the university. [1995 c.162 s.11]

**353.070 Products of disabled individuals; duties of university; publication of product sources.** (1) As used in this section:

(a) "Direct labor" includes all work required for preparation, processing and packing, but not supervision, administration, inspection or shipping.

(b) "Disabled individual" means an individual who, because of the nature of the individual's disabilities, is not able to participate fully in competitive employment, and for whom specialized employment opportunities must be provided.

(c) "Qualified nonprofit agency for disabled individuals" means a nonprofit activity center or rehabilitation facility:

(A) Organized under the laws of the United States or of this state and operated in the interest of disabled individuals, and the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual;

(B) That complies with any applicable occupational health and safety standards required by the laws of the United States or of this state; and

(C) That in the manufacture of products and in the provision of services during the fiscal year employs disabled individuals for not less than 75 percent of the work hours of direct labor required for the manufacture or provision of the products or services.

(2) The Oregon Health Sciences University Board of Directors shall further the policy of this state to encourage and assist disabled individuals to achieve maximum personal independence through useful and productive gainful employment by ensuring an expanded and constant market for sheltered workshop and activity center products and services, thereby enhancing the dignity and capacity of disabled individuals for self-support and minimizing their dependence on welfare and need for costly institutionalization.

(3) It shall be the duty of Oregon Health Sciences University to:

(a) Determine the price of all products manufactured and services offered for sale to the university by any qualified nonprofit agency for disabled individuals. The price shall recover for the workshops the cost of raw materials, labor, overhead, delivery costs and a margin held in reserve for inventory and equipment replacement;

(b) Revise such prices from time to time in accordance with changing cost factors;

(c) Make such rules regarding specifications, time of delivery and other relevant matters of procedure as shall be necessary; and

(d) Utilize prices and specifications, in its discretion, established by the Oregon Department of Administrative Services.

(4) The university shall establish and publish a list of sources or potential sources of products produced by any qualified nonprofit agency for disabled individuals and the services provided by any such agency that the university determines are suitable for its procurement. The university, in its discretion, may utilize any list established and published by the Oregon Department of Administrative Services.

(5) If the university intends to procure any product or service on the procurement list, the university shall procure such product or service at the price established by the university from a qualified nonprofit agency for disabled individuals, provided the product or service is of the appropriate specifications and is available at the location and within the period required by the university.

(6) It is the intent of the Legislative Assembly that there be close cooperation between the board, the university and qualified nonprofit agencies for disabled individuals. The university, on behalf of the board, is authorized to enter into such contractual agreements, cooperative working relationships or other arrangements as may be necessary for effective coordination and efficient realization of the objectives of this section. [1995 c.162 s.16a; 1999 c.291 s.5]

**353.080 Report on activities and operations.** Oregon Health Sciences University shall file with the Legislative Assembly and the Governor, not later than April 15 of each year, a report of the university's activities and operations for the preceding year. [1995 c.162 s.7; 1999 c.291 s.6]

## AUTHORITY AND DUTIES

**353.100 Applicability of laws to university.** (1) The provisions of ORS chapters 35, 190, 192, 244, 281 and 295 and ORS 30.260 to 30.460, 200.005 to 200.025, 200.045 to 200.090, 236.605 to 236.640, 243.650 to 243.782, 297.040, 307.090 and 307.112 shall apply to Oregon Health Sciences University under the same terms as they apply to public bodies other than the state.

(2) Except as otherwise provided by law, the provisions of ORS chapters 182, 183, 240, 270, 273, 276, 279, 283, 291, 292, 293, 294 and 297 and ORS 180.060, 180.210 to 180.235, 184.305 to 184.345, 190.430, 190.480, 190.490, 192.105, 200.035, 236.380, 243.105 to 243.585, 243.696, 278.011 to 278.120, 278.315 to 278.415, 281.210 to 281.260, 282.010 to 282.150, 357.805 to 357.895 and 656.017 (2) shall not apply to the university.

(3) As a distinct governmental entity, the university shall not be subject to any provision of law enacted after January 1, 1995, with respect to any governmental entity, unless the provision specifically provides that it applies to the university. [1995 c.162 s.9; 1999 c.291 s.7]

**353.108 Real property and facilities utilized by university; legal title; lease; management.** (1) Legal title to real property and facilities acquired by the State of Oregon prior to July 1, 1995, and utilized by Oregon Health Sciences University shall remain with the State of Oregon. However, the university shall have the exclusive care, custody and control of such real property and facilities pursuant to an exclusive leasehold interest in the real property and facilities for a term of 99 years. The term of the leasehold shall begin on July 1, 1995, and shall renew automatically and perpetually for consecutive 99-year terms.

(2) Notwithstanding any other provisions of Oregon law concerning the authority of state agencies to lease real property and facilities, the Oregon Department of Administrative Services acting on behalf of the State of Oregon shall execute a ground lease for all real property and facilities utilized by the university consistent with the provisions of this section.

(3) The ground lease shall not be subject to any termination unless:

(a) The State of Oregon causes all outstanding obligations of the university to be defeased under the terms of any applicable master indenture or financing agreement; and

(b) There are no other conditions placed on the university.

(4) Upon execution of the ground lease, the university shall pay the State of Oregon the sum of \$99 in consideration for the ground lease.

(5) The ground lease executed under this section shall supersede the lease entered into between the State of Oregon and the university in December 1995, with respect to the real property and facilities, including but not limited to provisions in the lease relating to or setting forth:

- (a) Purported limitations on the authority of the State Board of Higher Education to bind the State of Oregon;
- (b) The term of the lease and the absence of any renewal provisions; and
- (c) Any circumstances under which the lease may be terminated.

(6) The university shall manage and maintain all real property and facilities utilized by the university. Real property and facilities of the State of Oregon leased to the university pursuant to this section shall not be sold by the university but may be encumbered by the university. Such real property and facilities shall only be encumbered by the State of Oregon in accordance with state law and in a manner that would not impair the financial condition of the university or the rights of the holders of any obligations of the university issued or incurred under any master indenture or other financing agreement. [1995 c.162 s.34; 1999 c.291 s.18]

**353.110 Authority to acquire private property; condemnation.** The Oregon Health Sciences University may acquire, by condemnation or otherwise, private property that is necessary or convenient in carrying out any power granted to the university. The right to acquire property by condemnation shall be exercised as provided by ORS chapter 35 and ORS 281.010 to 281.105. [1995 c.162 s.22]

**353.120 Adoption of alcohol and drug abuse policy.** The Oregon Health Sciences University shall adopt a comprehensive alcohol and drug abuse policy and implementation plan. [1995 c.162 s.27]

**353.130 Public contracts.** The Oregon Health Sciences University subscribes to the policy set forth under ORS 279.005 regarding public contracting, and shall develop contract policies that support openness, impartiality and competition in the awarding of contracts in accordance with that provision. The university subscribes to the intent of the social policies of ORS chapter 279 and shall develop contract policies that are appropriate to the university and are designed to encourage affirmative action, recycling, inclusion of art in public buildings, the purchase of services and goods from disabled individuals, the protection of workers through the payment of prevailing wages as determined by the Bureau of Labor and Industries, the provision of workers' compensation insurance to workers on contracts and the participation of emerging small businesses and businesses owned by women and minorities. [1995 c.162 s.16]

**353.140 Funding request; budget.** (1) By September 1 of each even-numbered year the Oregon Health Sciences University shall submit to the Oregon Department of Administrative Services a funding request for each biennium. The Oregon Department of Administrative Services shall include and submit a university funding request to the Legislative Assembly as part of the Governor's biennial budget. Any such request approved by the Legislative Assembly shall be appropriated to the Oregon Department of Administrative Services for direct allocation to the university. The budget request to the Legislative Assembly shall include a presentation on tuition and student fee levels.

(2) The university budget shall be prepared in accordance with generally accepted accounting principles and adopted by the Oregon Health Sciences University Board of Directors in accordance with ORS 192.610 to 192.710. [1995 c.162 s.13]

**353.160 Audits.** Nothing in this chapter shall affect the constitutional duties and authority of the Secretary of State to audit public accounts. However, the Oregon Health Sciences University shall conduct independent audits if such audits are considered advisable by the university. Such audits shall be subject to the exclusive discretion and control of the university and shall be subject to disclosure pursuant to ORS 192.410 to 192.505. [1995 c.162 s.14]

**353.180 Student education records; creation; use; custody; disclosure.** Oregon Health Sciences University may adopt policies relating to the creation, use, custody and disclosure, including access, of student education records of the university that are consistent with the requirements of applicable state and federal law. Whenever a student has attained 18 years of age or is attending the university, the permission or consent required of and the rights accorded to a parent of the student regarding education records shall thereafter only be required of and accorded to the student. [1995 c.162 s.26; 1999 c.291 s.8]

**353.190 Effect of student religious beliefs on admission and attendance.** (1) No student shall be refused admission to the Oregon Health Sciences University or be expelled for the sole reason that, because of religious beliefs, the student is unable to attend classes on a particular day.

(2) Any student in the university who, because of religious beliefs, is unable to attend classes on a particular day shall be excused on that day from any examination, study requirement or work requirement. However, at the student's

own expense the student shall make up the examination, study requirement or work requirement missed because of the absence. [1995 c.162 s.30]

**353.210 Physical access committee; members; duties.** (1) The Oregon Health Sciences University shall convene a physical access committee to identify barriers to access by disabled persons at the university. The committee shall include, but not be limited to:

- (a) One or more students who are disabled, or if there are no disabled students willing to participate, a disabled person who uses the university's facilities;
- (b) One or more members of the faculty or staff who are disabled;
- (c) The coordinator of disabled student services for the university;
- (d) One or more administrators of the university; and
- (e) One or more members of the physical plant staff of the university.

(2) The physical access committee shall present its findings and recommendations to the administration of the university, listing access needs and priorities for meeting those needs. These findings and recommendations shall identify the barriers to access that prevent disabled persons from meaningfully utilizing campus facilities related to instruction, academic support, assembly and residence life.

(3) In preparing budget requests for each biennium the university shall include amounts for capital improvement that will be applied to the substantial reduction and eventual elimination of barriers to access by disabled persons as identified by the physical access committee.

(4) Nothing in this section and ORS 185.155 and 341.937 requires the university to undertake projects for accessibility that are not otherwise required unless such projects are funded specifically by the Legislative Assembly. [1995 c.162 s.29]

## PERSONNEL

**353.250 Alternative retirement programs.** Notwithstanding the provisions of ORS chapter 238, the Oregon Health Sciences University may offer to its employees, in addition to the Public Employees Retirement System, alternative retirement programs. [1995 c.162 s.15; 1997 c.249 s.111]

**353.260 Personnel records; access; control; creation.** (1) Oregon Health Sciences University may adopt policies governing access to university personnel records that are less than 25 years old.

(2) Policies adopted under subsection (1) of this section shall require that personnel records be subjected to restrictions on access unless the president of the university finds that the public interest in maintaining individual rights to privacy in an adequate educational environment would not suffer by disclosure of such records. Access to such records may be limited to designated classes of information or persons, or to stated times and conditions, or to both, but cannot be limited for records more than 25 years old.

(3) No rule or order adopted pursuant to this section shall deny to a faculty member full access to the member's personnel file or records kept by the university, except as provided in subsection (4)(d) and (e) of this section.

(4)(a) The files relating to the evaluation of a faculty member shall be kept in designated, available locations.

(b) Any evaluation received by telephone shall be documented in each of the faculty member's files by means of a written summary of the conversation with the names of the conversants identified.

(c) A faculty member shall be entitled to submit, for placement in the files, evidence rebutting, correcting, amplifying or explaining any document contained therein and other material that the member believes might be of assistance in the evaluation process.

(d) Letters and other information for a faculty member of the university submitted in confidence to the State Board of Higher Education or its institutions, schools or departments prior to July 1, 1975, shall be maintained in the files designated by paragraph (a) of this subsection. However, if a faculty member requests access to those files, the anonymity of the contributor of letters and other information obtained prior to July 1, 1975, shall be protected. The full text shall be made available, except that portions of the text that would serve to identify the contributor shall be excised by a faculty committee. Only the names of the contributors and the excised portions of the documents may be kept in a file other than the files designated by paragraph (a) of this subsection.

(e) Confidential letters and other information submitted to or solicited by the university after July 1, 1995, and prior to the employment of a prospective faculty member are exempt from the provisions of this paragraph. However, if the member is employed by the university, the confidential preemployment materials shall be placed in the files

designated by paragraph (a) of this subsection. If a faculty member requests access to the member's files, the anonymity of the contributor of confidential preemployment letters and other preemployment information shall be protected. The full text shall be made available, except that portions of the text that would serve to identify the contributor shall be excised and retained in a file other than the files designated by paragraph (a) of this subsection.

(f) Classroom survey evaluations by students of a faculty member's classroom or laboratory performance shall be anonymous. The record of tabulated reports shall be placed in at least one of the files designated by paragraph (a) of this subsection. All survey instruments used to obtain evaluation data shall be returned to the faculty member.

(g) The university, when evaluating its employed faculty members, shall not solicit or accept letters, documents or other materials, given orally or in written form, from individuals or groups who wish their identity kept anonymous or the information they provide kept confidential.

(5) No policy or order adopted pursuant to this section limits the authority of the university to prepare, without identification of individual persons who have not consented thereto, statistical or demographic reports from personnel records.

(6) Any category of personnel records specifically designated as confidential pursuant to valid policies or orders as provided in this section shall not be deemed a public record for the purposes of ORS 192.420.

(7) As used in this section, "personnel records" means records containing information kept by the university concerning a faculty member and furnished by the faculty member or by others about the faculty member at the member's or at the university's request, including but not limited to information concerning discipline, membership activity, employment performance or other personal records of individual persons. [1995 c.162 s.23; 1999 c.291 s.9]

**353.270 Compensation of officers and employees; conflicts of interest.** (1) Oregon Health Sciences University may authorize receipt of compensation for any officer or employee of the university from private or public resources, including but not limited to income from:

(a) Consulting;

(b) Appearances and speeches;

(c) Intellectual property conceived, reduced to practice or originated and therefore owned within the university;

(d) Providing services or other valuable consideration for a private corporation, individual or entity, whether paid in cash or in kind, stock or other equity interest, or anything of value regardless of whether there is a licensing agreement between the university and the private entity;

(e) Performing public duties paid by private organizations, including university corporate affiliates, that augment an officer's or employee's publicly funded salary. Such income shall be authorized and received in accordance with policies established by the university; and

(f) Providing medical and other health services.

(2) The university shall not authorize compensation, as described in subsection (1) of this section, that, in the university's judgment, does not comport with the missions of the university or substantially interferes with an officer's or employee's duties to the university.

(3) Any compensation described and authorized under subsection (1) of this section shall be considered official salary, honorarium or reimbursement of expenses for purposes of ORS 244.040. If authorization or receipt of such compensation creates a potential conflict of interest, the potential conflict shall be reported in writing in accordance with policies of the university. The disclosure is a public record subject to public inspection.

(4) The university shall adopt standards governing employee outside employment and activities of employees, including potential conflicts of interest, as defined by the university and consistent with ORS 244.020, and the public disclosure thereof, and procedures for reporting and hearing potential or actual conflict of interest complaints. [1995 c.162 s.24; 1999 c.291 s.10]

**353.280 Faculty; status; powers.** The president and professors constitute the faculty of the Oregon Health Sciences University and as such have the immediate government and discipline of it and the students therein. The faculty may, subject to the supervision of the Oregon Health Sciences University Board of Directors, prescribe the course of study to be pursued at the university and the textbooks to be used. [1995 c.162 s.28]

**353.290 Reductions in faculty; affirmative action plans and goals.** The Oregon Health Sciences University shall consider and maintain affirmative action plans and goals when reductions in faculty and staff are required as a result of:

(1) Reductions in revenue that necessitate discontinuance of its educational program at its anticipated level;

- (2) Elimination of classes due to decreased student enrollment; or
- (3) Reduction in courses due to administrative decisions. [1995 c.162 s.31]

**353.300 Political or sectarian test prohibited in appointment of faculty or employees.** No political or sectarian test shall ever be allowed or applied in the appointment of faculty and other employees of the Oregon Health Sciences University. [1995 c.162 s.25]

## FINANCE

(Generally)

**353.330 Effect of law on bonds, certificates of participation or agreements for borrowing money; responsibility for payment; rights of holders of obligations.** (1) Nothing in chapter 162, Oregon Laws 1995, shall be construed in any way to impair the obligations or agreements of the State of Oregon or the State Board of Higher Education with respect to bonds, certificates of participation, financing agreements or other agreements for the borrowing of money issued prior to July 1, 1995, by the State of Oregon on behalf of the State Board of Higher Education for equipment or projects for Oregon Health Sciences University. The university and the State System of Higher Education shall take all actions necessary to ensure full compliance with all indentures, resolutions, declarations, agreements and other documents issued with respect to the bonds, certificates of participation, financing agreements or other agreements for the borrowing of money issued prior to July 1, 1995, by the State of Oregon on behalf of the State Board of Higher Education for equipment or projects for the university. The State System of Higher Education and the university shall establish, in a written agreement that shall be subject to the approval of the State Treasurer, the responsibility of the university for the payment to the State System of Higher Education of moneys sufficient to pay when due all principal, interest and any other charges on bonds, certificates of participation, financing agreements or other agreements for the borrowing of money issued prior to July 1, 1995, by the State of Oregon on behalf of the State Board of Higher Education for equipment or projects for the university.

(2) Holders of obligations issued by the university on or after July 1, 1995, may be paid *pari passu* with the obligations issued by the State of Oregon on behalf of the State Board of Higher Education for equipment or projects for the university prior to July 1, 1995, from the rents, revenues, receipts, appropriations or other income of the university, but only to the extent that:

(a) Such holders have no rights, liens or other interests with respect to such rents, revenues, receipts, appropriations or other income of the university that are senior or superior to the rights granted to the holders of obligations issued prior to July 1, 1995, by the State of Oregon on behalf of the State Board of Higher Education for equipment or projects for the university; and

(b) The State Board of Higher Education, the Oregon Department of Administrative Services or the State of Oregon, acting for the benefit of such holders of obligations, is granted a lien or other security interest in the rents, revenues, receipts, appropriations or other income of the university that is not junior to and is at least *pari passu* with any lien or other security interest granted to the holders of obligations issued by the university.

(3) Any expenses, including legal expenses, judgments, liabilities and federal arbitrage and rebate penalties arising from the actions of the university, if incurred with respect to bonds, certificates of participation, financing agreements or other agreements for the borrowing of money issued prior to July 1, 1995, by the State of Oregon on behalf of the State Board of Higher Education for equipment or projects for the university, shall be paid when due by the university, subject to the university's right to reasonably contest such charges, judgments, liabilities or penalties. The university shall assist the Controller of the State System of Higher Education in making any necessary calculations and filing any necessary reports related to arbitrage and rebate on such indebtedness.

(4) Any amounts deposited with the State Treasurer, the Controller of the State System of Higher Education, the Oregon Department of Administrative Services or its designated agents in any debt service in reserve accounts for the debt service associated with any bonds, certificates of participation, financing agreements or other agreements for the borrowing of money issued prior to July 1, 1995, by the State of Oregon on behalf of the State Board of Higher Education for equipment or projects for the university shall remain with the State Treasurer, the Controller of the State System of Higher Education, the Oregon Department of Administrative Services or its designated agents until such time as the bonds, certificates of participation, financing agreements or other agreements for the borrowing of money for which such reserve accounts have been established have been retired or defeased. The university shall be credited with the investment earnings on such reserve accounts. [1995 c.162 s.58; 1999 c.291 s.11]

**Note:** Legislative Counsel has substituted “chapter 162, Oregon Laws 1995,” for the words “this Act” in section 58, chapter 162, Oregon Laws 1995, compiled as 353.330. Specific ORS references have not been substituted pursuant to 173.160. These sections may be determined by referring to the 1995 Comparative Section Table located in Volume 18 of ORS.

(Bonds)

**353.340 Issuance and sale of revenue bonds by university.** Oregon Health Sciences University may from time to time issue and sell revenue bonds in accordance with the provisions of the Uniform Revenue Bond Act contained in ORS 288.805 to 288.945. However, the provisions contained in ORS 288.815 shall not apply to revenue bonds issued by the university. Such revenue bonds shall not in any manner nor to any extent be a general obligation of the university nor a charge upon any revenues or property of the university not specifically pledged thereto. No obligation of any kind incurred under ORS 288.805 to 288.945 shall be, or be considered, an indebtedness of the State of Oregon. [1995 c.162 s.59; 1999 c.291 s.12]

**353.350 Revenue bonds considered bonds or obligations of political subdivision.** Revenue bonds issued by the Oregon Health Sciences University pursuant to ORS 288.805 to 288.945 shall be considered to be bonds or obligations of a political subdivision of the State of Oregon for the purposes of all laws of the state. [1995 c.162 s.60]

**353.360 Authority of university to issue refunding bonds and advance refunding bonds.** Refunding bonds and advance refunding bonds of the same character and tenor as those replaced thereby may be issued by the Oregon Health Sciences University pursuant to ORS 288.592 to 288.695 as applicable and in accordance with the laws of the state. [1995 c.162 s.61]

**353.370 Notice to Legislative Assembly required if shortfall in moneys exists for payment of amounts under bonds, certificates of participation or agreements for borrowing money.** In addition to, and not in limitation of, the means of satisfying state general obligation bond obligations under ORS 291.445, Oregon Health Sciences University, promptly upon the discovery of any shortfall in moneys available to the university for the payment when due of amounts under any bonds, certificates of participation, financing agreements or other agreements for the borrowing of moneys issued prior to July 1, 1995, by the State of Oregon on behalf of the State Board of Higher Education for equipment or projects for the university, shall notify in writing the Legislative Assembly, or if the Legislative Assembly is not in session, the Emergency Board, of the existence and amount of the shortfall. The Legislative Assembly or the Emergency Board, as the case may be, may provide funds to satisfy the payment of any such amount. By enacting this provision, the Legislative Assembly acknowledges its current intention to provide, from funds other than those appropriated or otherwise made available to the State System of Higher Education, funds to pay such amount. However, except as may be required by the Oregon Constitution or ORS 291.445, neither the Legislative Assembly nor the Emergency Board shall have any legal obligation to provide funds under this section. [1995 c.162 s.61a; 1999 c.291 s.13]

(Financial Agreements)

**353.380 Definitions for ORS 353.380 to 353.420.** As used in ORS 353.380 to 353.420:

(1) “Credit enhancement agreement” means any agreement or contractual relationship between the Oregon Health Sciences University and any bank, trust company, insurance company, surety bonding company, pension fund or other financial institution providing additional credit on or security for a financing agreement or certificates of participation authorized by ORS 353.380 to 353.420.

(2) “Financing agreement” means a lease-purchase agreement, an installment sale agreement, a loan agreement, note agreement, short-term promissory notes, commercial papers, lines of credit or similar obligations or any other agreement to finance real or personal property that is or will be owned and operated by the university, or to refinance previously executed financing agreements.

(3) “Personal property” means tangible personal property, software and fixtures.

(4) “Property rights” means, with respect to personal property, the rights of a secured party under ORS 79.1010 to 79.5070 and 79.8010, and, with respect to real property, the rights of a trustee or lender under a lease authorized by

ORS 353.410 (4).

(5) "Software" means software and training and maintenance contracts related to the operation of computing equipment. [1995 c.162 s.17]

**353.390 University authorized to enter into financing agreements; limitations.** Oregon Health Sciences University may enter into financing agreements in accordance with ORS 353.380 to 353.420, upon such terms as the university finds to be advantageous. Amounts payable by the university under a financing agreement shall be limited to funds specifically pledged, budgeted for or otherwise made available by the university. If there are insufficient available funds to pay amounts due under a financing agreement, the lender may exercise any property rights that the university has granted to it in the financing agreement against the property that was purchased with the proceeds of the financing agreement, and may apply the amounts so received toward payments scheduled to be made by the university under the financing agreement. [1995 c.162 s.18; 1999 c.291 s.14]

**353.400 Delegation of board authority.** The Oregon Health Sciences University Board of Directors may delegate to any board member, officer or employee of the Oregon Health Services University the authority to determine maturity dates, principal amounts, redemption provisions, interest rates or methods for determining variable or adjustable interest rates, denominations and other terms and conditions of such obligations that are not appropriately determined at the time of enactment or adoption of the authorizing resolution. The board may also delegate entering into financing agreements or any other instruments authorized by law. This delegated authority shall be exercised subject to applicable requirements of law and such limitations and criteria as may be set forth in the authorizing resolution. [1995 c.162 s.19]

**353.410 University powers regarding financing agreements and credit enhancement agreements.** Oregon Health Sciences University may:

(1) Enter into agreements with third parties to hold financing agreement proceeds, payments and reserves as security for lenders, and to issue certificates of participation in the right to receive payments due from the university under a financing agreement. Amounts so held shall be invested at the direction of the Oregon Health Sciences University Board of Directors. Interest earned on any investments held as security for a financing agreement may, at the option of the board, be credited to the accounts held by the third party and applied in payment of sums due under a financing agreement.

(2) Enter into credit enhancement agreements for financing agreements or certificates of participation, provided that such credit enhancement agreements shall be payable solely from funds specifically pledged, budgeted for or otherwise made available by the university and amounts received from the exercise of property rights granted under such financing agreements.

(3) Use financing agreements to finance the costs of acquiring or refinancing real or personal property, plus the costs of reserves, credit enhancements and costs associated with obtaining the financing.

(4) Grant leases of real property with a trustee or lender. Such leases may be for a term that ends on the date on which all amounts due under a financing agreement have been paid or provision for payment has been made, or up to 20 years after the last scheduled payment under a financing agreement, whichever is later. Such leases may grant the trustee or lender the right to evict the university and exclude it from possession of the real property for the term of the lease if the university fails to pay when due the amounts scheduled to be paid under a financing agreement, or otherwise defaults under a financing agreement. Upon default, the trustee or lender may sublease the land to third parties and apply any rentals toward payments scheduled to be made under a financing agreement.

(5) Grant security interests in personal property to trustees or lenders.

(6) Make pledges for the benefit of trustees and lenders.

(7) Purchase fire and extended coverage or other casualty insurance for property that is acquired or refinanced with proceeds of a financing agreement, assign the proceeds thereof to a lender or trustee to the extent of their interest, and covenant to maintain such insurance while the financing agreement is unpaid, so long as available funds are sufficient to purchase such insurance. [1995 c.162 s.20; 1999 c.291 s.15]

**353.420 Effect of financing agreement on tax status.** A lease or financing agreement under ORS 353.380 to 353.420 shall not cause property to be subject to property taxation and shall be disregarded in determining whether property is exempt from taxation under ORS chapter 307. [1995 c.162 s.21]

## PROGRAMS

**353.440 Coordination of programs with State System of Higher Education.** The Legislative Assembly finds that:

(1) Institutions in the State System of Higher Education and other educational sectors have academic programs that are related to or integrated with the programs of Oregon Health Sciences University.

(2) It is in the best interest of the state that a coordinated approach be taken to these related and integrated academic programs.

(3) In order to best ensure the continued harmony of such academic programs, the university and the State System of Higher Education shall coordinate such programs and shall advise each other of the following proposed changes to such academic programs:

(a) Creation or significant revision, such as a merger or closure, of degree programs;

(b) Creation or significant revision, such as a merger or closure, of schools; and

(c) Creation or significant revision of major academic policies.

(4) In order to further the coordination described by this section, university officers shall maintain a role in the appropriate committees of the State Board of Higher Education and the State System of Higher Education. [1995 c.162 s.12; 1999 c.291 s.16]

**353.450 Area Health Education Center program; continuing education programs for physicians in rural areas; emergency medical technician training in rural areas.** (1) It is the finding of the Legislative Assembly that there is need to provide programs that will assist a rural community to recruit and retain physicians, physician assistants and nurse practitioners. For that purpose:

(a) The Legislative Assembly supports the development at the Oregon Health Sciences University of an Area Health Education Center program as provided for under the United States Public Health Service Act, Section 781.

(b) The university shall provide continuing education opportunities for persons licensed to practice medicine under ORS chapter 677 who practice in rural areas of this state in cooperation with the respective professional organizations, including the Oregon Medical Association and the Oregon Society of Physician Assistants.

(c) The university shall seek funding through grants and other means to implement and operate a fellowship program for physicians, physician assistants and nurse practitioners intending to practice in rural areas.

(2) With the moneys transferred to the Area Health Education Center program by ORS 442.625, the program shall:

(a) Establish educational opportunities for emergency medical technicians in rural counties;

(b) Contract with educational facilities qualified to conduct emergency medical training programs using a curriculum approved by the Emergency Medical Services and Trauma Systems Program; and

(c) Review requests for training funds with input from the State Emergency Medical Service Committee and other individuals with expertise in emergency medical services. [Formerly 352.095; 1999 c.1056 s.8]

**353.460 Center for Research on Occupational and Environmental Toxicology.** (1) Subject to the provisions of sections 13 and 16, chapter 770, Oregon Laws 1985, there is created a Center for Research on Occupational and Environmental Toxicology. The Oregon Health Sciences University shall administer the center.

(2) The purposes of the center may include, but are not limited to, reducing the incidence of disease and reducing the costs and dangers to employers and employees associated with occupational disease. Specific functions of the center may include:

(a) Basic and applied research into the incidence and causes of occupational diseases.

(b) Epidemiology and other data collection.

(c) Design of programs for clinical management of occupational diseases.

(d) Education and training programs.

(3) Although the output of the center's programs is intended to be of statewide use for employers, employees, health professionals and the public concerning occupational disease, it is not intended that the center shall assume any of the responsibilities or functions of the physical rehabilitation facility operated by the Director of the Department of Consumer and Business Services. The center may offer programs of diagnosis and treatment of occupational disease, but it is expected that such services shall be compensable under ORS chapter 656. [Formerly 352.073]

**353.470 Funding of center.** It is expected that the Center for Research on Occupational and Environmental Toxicology will operate, on an ongoing basis, from funds provided by the Department of Consumer and Business

Services, in addition to any gifts, grants or donations made to carry out the activities of the center. Oregon Health Sciences University is not expected to provide funds for operation of the center from any other sources of funds for operation of the university. [Formerly 352.083; 1999 c.291 s.20]

**353.480 Pediatric dental residency program.** Subject to the availability of funding, the Oregon Health Sciences University shall establish the pediatric dental residency program only to the extent that funds are appropriated to the Oregon Department of Administrative Services for the Oregon Health Sciences University public corporation to establish the program under section 1, chapter 1083, Oregon Laws 1999. [1999 c.1083 s.2]

**Note:** 353.480 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 353 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**Note:** Chapter 919, Oregon Laws 1999, was referred to the people for their approval or rejection at the regular general election to be held throughout this state on November 7, 2000. See section 11, chapter 919, Oregon Laws 1999. Sections 6 and 7, chapter 919, Oregon Laws 1999, provide:

**Sec. 6. Oregon Health Sciences University Medical Research Partnership.** (1) The Oregon Health Sciences University Board of Directors shall enter into an agreement with a community foundation, as defined in ORS 348.580, in Oregon to create an Oregon Health Sciences University Medical Research Partnership. The partnership may be used to recruit and retain faculty who are national quality investigators who conduct bench-to-bedside research in emerging clinical areas such as cancer, gene therapy, vaccine development, women's health issues and cardiovascular disorders.

(2) The board shall transfer moneys appropriated to, allocated to, transferred to or otherwise received by the university for the purposes of the partnership to the community foundation to be placed in the partnership.

(3) Any agreement entered into between the board and a community foundation under this section shall include a requirement that the partnership be invested by the community foundation and that moneys in the partnership be distributed to the Oregon Health Sciences Foundation as follows:

(a) For each \$2 million of private matching funds raised by the Oregon Health Sciences Foundation, the community foundation shall release \$1 million from the partnership to the Oregon Health Sciences Foundation for the purpose of recruiting and retaining intellectual capital at the university, if such funds are available.

(b) For each \$3 million increment raised and released under paragraph (a) of this subsection, the Oregon Health Sciences Foundation may use no more than \$1 million for recruitment, relocation and capital expenses for each faculty recruitment and a minimum of \$2 million to establish an income-producing endowment to support the faculty position.

(4) In addition to the requirements of subsection (3) of this section, the agreement shall include a requirement that the community foundation, in partnership with the university, submit an annual report to the Legislative Assembly or the appropriate interim legislative committees about the key faculty recruitments that have been funded through the Oregon Health Sciences University Medical Research Partnership and the resulting return to Oregon's economy and quality of life. [1999 c.919 s.6]

**Sec. 7. Transfer of earnings from Health Security Fund for partnership.** In each fiscal year, there is transferred to the Oregon Health Sciences University public corporation seven percent of all earnings on moneys in the Health Security Fund until \$10 million has been transferred. The moneys transferred under this section may be expended for the Oregon Health Sciences University Medical Research Partnership created under section 6 of this 1999 Act. [1999 c.919 s.7]

---