Chapter 342

2003 EDITION

Teachers and Other School Personnel

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342.045 [Repealed by 1961 c.439 §13]

342.050 [Amended by 1955 c.518 §2; repealed by 1961 c.439 §13]

342.055 [Repealed by 1963 c.544 §52]

342.060 [Amended by 1957 c.638 §1; repealed by 1965 c.100 §456]

342.065 [Amended by 1955 c.101 §1; renumbered 342.602]

342.070 [Amended by 1957 c.638 §2; 1961 c.677 §1; renumbered 342.175]

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342.115 [Repealed by 1961 c.439 §13]

GENERAL PROVISIONS

342.120 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Administrator" includes all superintendents, assistant superintendents and principals in the public schools or education service districts.

(2) "Approved teacher education institution" is one which meets the standards of the Teacher Standards and Practices Commission for preparation of teachers for preprimary programs and grades 1 through 12.

(3) "Approved teacher education program" is one offered by an approved teacher education institution and is so recognized by the Teacher Standards and Practices Commission, after considering recommendations of the State Board of Education.

(4) "Commission" means the Teacher Standards and Practices Commission.

(5) "Educational assistant" means a classified school employee who does not require a license to teach, who is employed by a school district or education service district and whose assignment consists of and is limited to assisting a licensed teacher in accordance with rules established by the State Board of Education.

(6) "Instruction" includes direction of learning in class, in small groups, in individual situations, in the library and in guidance and counseling, but does not include the provision of related services, as defined in ORS 343.035, to a child identified as a child with disabilities pursuant to ORS 343.146 to 343.183 when provided in accordance with ORS 343.221.

(7) "Intern teacher" means a regularly enrolled student of an approved teacher education institution who teaches under the supervision of the staff of the institution and of the employing school district in order to acquire practical experience in teaching and for which the student receives both academic credit from the institution and financial compensation from the school district or education service district.

(8) "State board" means the State Board of Education.

(9) "Teacher" includes all licensed employees in the public schools or employed by an education service district who have direct responsibility for instruction, coordination of educational programs or supervision or evaluation of teachers and who are compensated for their services from public funds. "Teacher" does not include a school nurse as defined in ORS 342.455.

(10) "Teaching license" means a license issued under ORS 342.125 or 342.144. [1961 c.439 §1; 1965 c.100 §348; 1965 c.550 §1; 1973 c.270 §2; 1975 c.278 §1; 1981 c.393 §1; 1981 c.469 §5; 1989 c.125 §1; 1993 c.45 §149; 2001 c.653 §4]

LICENSING AND REGISTRATION OF TEACHERS AND ADMINISTRATORS

(Generally)

342.121 Teacher and administrator licensing; certification from professional organizations; certificate not required. (1) The Teacher Standards and Practices Commission shall issue licenses to teachers and administrators who possess the minimum competencies, knowledge and skills to teach and administer in the public schools of the state.

(2) In addition to a teaching or administrative license, a person may obtain certification, indicating a higher degree of competency, knowledge and skill based on work experience and advanced study, from a professional organization of teachers or administrators, either on the state or national level. However, a teaching certificate or ad-

ministrative certificate shall not be required to teach or administer in a public school of this state. [1991 c.662 §11; 1993 c.45 §151]

Note: 342.121 was added to and made a part of 342.120 to 342.430 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

342.122 Professional Organizations Certification Fund. (1) There is created the Professional Organizations Certification Fund, separate and distinct from the General Fund. Interest earned on moneys in the Professional Organizations Certification Fund shall be credited to the fund.

(2) The Teacher Standards and Practices Commission may accept from any source any grant, donation or gift of money or other valuable thing made to the commission for purposes of the Professional Organizations Certification Fund.

(3) Moneys credited to the Professional Organizations Certification Fund are continuously appropriated to the commission for the purposes of advanced certifications of teachers and administrators in accordance with ORS 342.121 (2). The commission may draw checks or orders upon the State Treasurer in making disbursements from the Professional Organizations Certification Fund for the purposes stated in this subsection. [2001 c.381 §2]

Note: 342.122 was added to and made a part of 342.120 to 342.430 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

342.123 Knowledge of civil rights laws required. (1) In addition to and not in lieu of any other law or rule or standard established by the Teacher Standards and Practices Commission, the commission shall require an applicant for a teaching license or any renewal thereof demonstrate knowledge of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and federal statutes pertaining thereto, as well as state statutes prohibiting discrimination.

(2) An applicant shall be required to demonstrate knowledge of federal and state statutes prohibiting discrimination required by subsection (1) of this section only once. [1977 c.805 §2; 1981 c.663 §1]

342.125 Types of licenses; charter school teacher registry; expedited process. (1) Teaching licenses shall be issued and renewed by the Teacher Standards and Practices Commission by the authority of the State of Oregon, subject to ORS 342.120 to 342.430 and the rules of the commission.

(2) Subject to subsection (4) of this section, teaching licenses shall be of the following types:

(a) Basic teaching license.

(b) Standard teaching license.

(c) Administrative license.

(d) Restricted teaching license.

(3) Subject to ORS 342.130 and to subsection (4) of this section and in addition to the teaching licenses described in subsection (2) of this section, licenses shall be of the following types:

(a) Initial teaching license.

(b) Continuing teaching license.

(c) Initial personnel service license.

(d) Continuing personnel service license.

(e) Initial administrative license.

(f) Continuing administrative license.

(4) The Teacher Standards and Practices Commission may establish such other types of teaching licenses as it considers necessary for operation of the public schools of the state and may prescribe the qualifications for such licenses. However, no license established under the authority of this subsection shall be required for a regular classroom teaching position in the public schools.

(5)(a) The Teacher Standards and Practices Commission shall establish a public charter school teacher registry. The commission shall require the applicant and the public charter school to jointly submit an application requesting registration as a public charter school teacher. The application shall include:

(A) A description of the specific teaching position the applicant will fill;

(B) A description of the background of the applicant that is relevant to the teaching position, including any post-secondary education or other experience; and

(C) Documentation as required by the commission for the purposes of conducting a background check through the Law Enforcement Data System, the Federal Bureau of Investigation and an interstate clearinghouse of revoked and suspended licenses.

(b) Subject to the results of the background check, the commission shall approve the application for registration. The commission may deny a request for registration only on the basis of the background check through the Law Enforcement Data System, the Federal Bureau of Investigation or an interstate clearinghouse of revoked and suspended licenses. The registration shall be valid for three years and may be renewed upon joint application from the teacher and the public charter school.

(c) A registration as a public charter school teacher shall qualify its holder to accept the teaching position described in the application in the public charter school that

submitted the application with the holder of the registration.

(6) The Teacher Standards and Practices Commission shall adopt an expedited process for the issuance of any license established pursuant to this section. The process may require a school district superintendent or school district board and the applicant to jointly submit an application requesting an emergency license. Within two working days after receiving a completed application the commission shall issue the emergency license. However, the commission may limit the number of applications for expedited service from a school district or education service district to not more than 100 applications in a period of two working days. For purposes of this subsection, the commission shall not distinguish between a school district or education service district involved in a labor dispute and any other school district or education service district. [1961 c.439 §2; 1965 c.100 §349; 1965 c.550 §2; part renumbered 342.127; 1973 c.270 §3; 1981 c.663 §2; 1991 c.662 §5; 1993 c.45 §152; 1997 c.352 §1; 1997 c.383 §1; 1999 c.199 §2]

Note: Section 154, chapter 45, Oregon Laws 1993, provides:

Sec. 154. Subject matter indorsement. Notwithstanding ORS 342.125 (2) and 342.135, a teacher shall be granted a subject matter indorsement if the teacher held a basic license and a subject matter indorsement on or before January 1, 1981. [1993 c.45 §154]

342.126 First aid card required for teaching license; waiver for disability. (1) Except as provided in subsection (2) of this section, within 90 days after receiving an initial or basic teaching license under ORS 342.125, the holder of the license shall obtain a recognized first aid card. Failure to obtain the card shall result in suspension of the teaching license pursuant to ORS 342.175.

(2) The Teacher Standards and Practices Commission may waive the requirement of subsection (1) of this section for any holder of a teaching license who has taken a recognized first aid course of study but who is unable by reason of physical disability to obtain a recognized first aid card.

(3) The commission by rule shall specify the procedure whereby the holder of a teaching license can obtain the waiver authorized by subsection (2) of this section. [1977 c.826 §2; 1981 c.180 §1; 1993 c.45 §155; 1997 c.383 §10]

342.127 Fees; basis. (1) The Teacher Standards and Practices Commission shall establish and the commission shall collect:

(a) A fee not to exceed $100 for evaluation of the initial application for each teaching license for which application is made. If the applicant is eligible for the teaching license for which application is made and the license is issued within 90 days of original application, the commission shall issue the license without additional charge.

(b) A fee not to exceed $100 for the renewal of each teaching license and a fee not to exceed $20 for each duplicate teaching license.

(c) A fee not to exceed $800 for a beginning teacher assessment conducted in lieu of an approved preparation program required for licensure.

(d) A fee not to exceed $200 for alternative assessment conducted in lieu of a passing score on a licensure examination established by the commission.

(e) A fee not to exceed $50 for registration as a public charter school teacher that includes any fee charged pursuant to ORS 342.223.

(f) A fee not to exceed $50 for renewal of a registration as a public charter school teacher that includes any fee charged pursuant to ORS 342.223.

(2) In addition to the fee required by subsection (1) of this section for the issuance of a teaching license, the Teacher Standards and Practices Commission shall collect a fee not to exceed $150 for the evaluation of an applicant requesting licensing based upon completion of other than an Oregon approved teacher education program.

(3) In addition to the fees required by subsection (1) of this section, the Teacher Standards and Practices Commission shall collect a late application fee not to exceed $25 per month up to a maximum of $125 from an applicant who fails to make timely application for renewal of the license or registration. The actual amount of the fee shall be determined in accordance with rules of the Teacher Standards and Practices Commission.

(4) In spite of the expiration date posted on the license, the license shall continue to be valid for purposes of ORS 342.173 for an additional 120 days. However, the district may require a statement from the applicant indicating that the applicant has completed the requirements for license renewal.

(5) In addition to the fee required by subsection (1) of this section for the issuance of a teaching license, the commission shall collect a fee not to exceed $150 for the reinstatement of a license that has been revoked by the commission for gross neglect of duty or gross unfitness under ORS 342.175.

(6) In addition to the fee required by subsection (1) of this section for the issuance of a teaching license, the commission shall collect a fee not to exceed $100 for the issuance of any emergency license through an expedited process at the request of any

school district or education service district that seeks to employ the applicant.

(7) Fee rates established under this section shall cover, but not exceed, the full cost of administrative expenses incurred by the commission during any biennium. [Subsections (1) and (2) formerly part of 342.125; subsection (3) enacted as 1965 c.535 §14; 1969 c.416 §1; 1971 c.41 §1; 1973 c.270 §4; 1981 c.663 §3; 1983 c.14 §1; 1991 c.144 §1; 1993 c.45 §156; 1997 c.165 §1; 1997 c.352 §3; 1999 c.199 §4; 1999 c.768 §1]

342.130 Certain existing certificates and licenses not invalidated. (1) Nothing in ORS 342.120 to 342.173 is intended to invalidate the life of any certificate or diploma in effect on June 30, 1965, nor to invalidate the rights granted prior to June 30, 1965, by the law and the rules of the State Board of Education under which the certificate or diploma was issued.

(2) Nothing in chapter 550, Oregon Laws 1965, is intended to invalidate the life of any teaching certificate in effect on August 13, 1965, or to alter the rights and privileges granted prior to August 13, 1965, by the law under which the teaching certificate was issued.

(3) Nothing in ORS 342.120 to 342.173 is intended to invalidate the life of any basic or standard teaching or administrative license in effect prior to January 15, 1999, nor to invalidate the rights granted prior to January 15, 1999, by the law and by the rules of the Teacher Standards and Practices Commission under which the license was issued. [1961 c.439 §3; 1965 c.100 §350; subsection (2) enacted as 1965 c.550 §4; 1997 c.383 §2; 1999 c.59 §89]

342.135 Basic, standard and other teaching licenses; basis of renewal; rules. (1) A teaching license provided for in this section shall qualify its holder to accept any instructional assignment from preprimary through grade 12 for which the holder has completed the professional requirements established by the rules of the Teacher Standards and Practices Commission.

(2) A basic teaching license shall be issued on application to an otherwise qualified person who has completed an approved teacher education program and meets such other requirements as the Teacher Standards and Practices Commission may consider necessary to maintain and improve quality of instruction in the public schools of the state.

(a) Holders of the basic teaching license who meet the requirements of the Teacher Standards and Practices Commission to teach in the regular classroom program of the public schools, kindergarten through grade nine, may renew the basic license to qualify them to continue in such teaching by verification of successful teaching experience and of continuing professional development in keeping with Teacher Standards and Practices Commission rules.

(b) A holder of the basic teaching license with an indorsement in art, educational media, foreign language, health, home economics, industrial arts, music, physical education and reading may renew the initial basic license by verification of successful teaching experience and of continuing professional development in keeping with Teacher Standards and Practices Commission rules. This subsection applies to licenses for preprimary programs and grades 1 through 8 and shall include grade 9 if the teacher is teaching in a middle school or a junior high.

(c) Secondary teachers may teach in the public schools, grades 5 through 12, in those subject fields in which they have met the requirements of the Teacher Standards and Practices Commission.

(d) The holder of the standard teaching license who meets the requirements of the Teacher Standards and Practices Commission to teach in the regular classroom program of the public schools in kindergarten through grade 12 is eligible to renew the standard license to qualify to continue in such teaching by verification of successful teaching experience and of continuing professional development consistent with rules of the Teacher Standards and Practices Commission.

(3)(a) A standard teaching license shall be issued on application to an otherwise qualified person who has completed an approved teacher education program, has taught on a basic teaching license for a minimum period of time to be determined by the Teacher Standards and Practices Commission, and is recommended for licensing by the approved teacher education institution or the school district, whichever offered the program.

(b) Preparation shall be a planned education program consisting of courses taken in an approved teacher education institution or in an in-service training program offered by a school district for which credit is given by an approved teacher education institution or some combination of both, in accordance with rules of the Teacher Standards and Practices Commission.

(4) Notwithstanding subsection (2) of this section, the Teacher Standards and Practices Commission shall by rule adopt dates by which continuing professional development is required for renewal of a basic or standard teaching license. [1961 c.439 §4; 1965 c.100 §354; 1965 c.550 §3; 1973 c.270 §5; 1989 c.521 §1; 1993 c.45 §157; 1997 c.383 §6]

Note: See note under 342.125.

342.136 Initial teaching, personnel service and administrative licenses; renewal. (1) An initial teaching, personnel service or administrative license shall qualify its holder to accept any assignment from preprimary through grade 12 for which the holder has completed the requirements established by the rules of the Teacher Standards and Practices Commission.

(2) An initial license shall be issued on application to an otherwise qualified person who has completed an approved professional education program and meets such other requirements as the commission may consider necessary to maintain and improve the quality of instruction in the public schools of the state.

(3) An initial license may be renewed if the applicant meets the requirements established by the commission by rule. [1997 c.383 §4; 2003 c.525 §1]

Note: Section 3, chapter 525, Oregon Laws 2003, provides:

Sec. 3. The amendments to ORS 342.136 and 342.138 by sections 1 and 2 of this 2003 Act apply to initial and continuing licenses issued or renewed by the Teacher Standards and Practices Commission on or after January 15, 1999. [2003 c.525 §3]

342.138 Continuing teaching, personnel service and administrative licenses; qualifications for continuing license; renewal. (1) A continuing teaching, personnel service or administrative license shall qualify the holder to accept any assignments for preprimary through grade 12 for which the holder has completed the advanced requirements established by the rules of the Teacher Standards and Practices Commission.

(2) A continuing license shall be issued on application for five years to an otherwise qualified person who has:

(a) Completed an advanced professional education program approved by the commission;

(b) Been employed for a minimum period of time to be determined by the commission in:

(A) An Oregon public school;

(B) An Oregon private school that meets the standards adopted by the commission by rule or is registered as a private school under ORS 345.505 to 345.575; or

(C) Another educational setting approved by the commission; and

(c) Demonstrated minimum competencies, knowledge and skills required for the continuing license through an approved teacher education institution, school district, professional organization identified in ORS 342.121, or professional assessment approved by the commission.

(3) The holder of a continuing license may renew the continuing license in accordance with the rules of the commission. [1997 c.383 §5; 2003 c.525 §2]

Note: See note under 342.136.

Note: Section 4, chapter 525, Oregon Laws 2003, provides:

Sec. 4. (1) During the 2003-2005 biennium, the Teacher Standards and Practices Commission shall study the policy issues that have arisen from the implementation of the continuing teaching license.

(2) Prior to May 1, 2004, the commission shall report to the interim committees on education about the progress of the study.

(3) Prior to February 1, 2005, the commission shall report to the Seventy-third Legislative Assembly about the plan for changing the administrative rules of the commission to reflect the conclusions from the study. [2003 c.525 §4]

342.140 Administrative license. (1) An administrative license shall qualify its holder to serve in any administrative assignment for which the holder has completed the professional requirements established by the rules of the Teacher Standards and Practices Commission.

(2) An administrative license shall be issued and renewed on application to an otherwise qualified person who meets such requirements as to professional preparation and experience as the Teacher Standards and Practices Commission may establish. [1961 c.439 §5; 1965 c.100 §355; 1973 c.270 §6; 1991 c.662 §6]

342.143 Issuance of teaching, personnel service or administrative license and registration as charter school teacher. (1) No teaching, personnel service or administrative license shall be issued to any person until the person has attained the age of 18 years and has furnished satisfactory evidence of proper educational training.

(2) The Teacher Standards and Practices Commission may also require an applicant for a teaching, personnel service or administrative license to furnish evidence satisfactory to the commission of good moral character, mental and physical health, and such other evidence as it may deem necessary to establish the applicant's fitness to serve as a teacher.

(3) Without limiting the powers of the Teacher Standards and Practices Commission under subsection (2) of this section and notwithstanding ORS 670.280:

(a) No teaching, personnel service or administrative license or registration as a public charter school teacher shall be issued to any person who:

(A) Has been convicted of a crime listed in ORS 163.095, 163.115, 163.185, 163.235, 163.355, 163.365, 163.375, 163.385, 163.395, 163.405, 163.408, 163.411, 163.415, 163.425, 163.427, 163.435, 163.445, 163.465, 163.515, 163.525, 163.547, 163.575, 163.670, 163.675

(1985 Replacement Part), 163.680 (1993 Edition), 163.684, 163.686, 163.687, 163.688, 163.689, 164.325, 164.415, 166.005, 166.087, 167.007, 167.012, 167.017, 167.062, 167.065, 167.070, 167.075, 167.080, 167.087, 167.090, 475.995 or 475.999;

(B) Has been convicted under ORS 161.405 of an attempt to commit any of the crimes listed in subparagraph (A) of this paragraph; or

(C) Has been convicted in another jurisdiction of a crime that is substantially equivalent, as defined by rule, to any of the crimes listed in subparagraphs (A) and (B) of this paragraph.

(b) The Teacher Standards and Practices Commission may refuse to issue a license or registration to any person who has been convicted of a crime involving the illegal use, sale or possession of controlled substances.

(4) In denying the issuance of a license or registration under this section, the commission shall follow the procedure set forth in ORS 342.176 and 342.177.

(5) The Department of Education shall provide school districts and public charter schools a copy of the list contained in subsection (3) of this section. [1965 c.100 §352; 1971 c.743 §357; 1973 c.270 §7; 1979 c.744 §14; 1987 c.158 §58; 1987 c.503 §6; 1993 c.45 §158; 1993 c.301 §6; 1993 c.603 §2; 1995 c.446 §8; 1995 c.768 §14; 1997 c.383 §§11,11a; 1999 c.199 §8; 1999 c.308 §1]

342.144 American Indian languages teaching license. (1) As used in this section, "American Indian tribe" means an Indian tribe as that term is defined in ORS 97.740.

(2) The Legislative Assembly declares that teaching American Indian languages is essential to the proper education of American Indian children.

(3) The Teacher Standards and Practices Commission shall establish an American Indian languages teaching license.

(4) Each American Indian tribe may develop a written and oral test that must be successfully completed by an applicant for an American Indian languages teaching license in order to determine whether the applicant is qualified to teach the tribe's native language. When developing the test, the tribe shall determine:

(a) Which dialects will be used on the test;

(b) Whether the tribe will standardize the tribe's writing system; and

(c) How the teaching methods will be evaluated in the classroom.

(5) The test shall be administered at an appropriate location that does not create hardship for the tribal members administering the test.

(6) The commission may not require an applicant to hold a specific academic degree, to complete a specific amount of education or to complete a teacher education program to receive an American Indian languages teaching license.

(7)(a) An American Indian languages teaching license qualifies the holder to accept a teaching position in a school district, public charter school, education service district, community college or state institution of higher education.

(b) A holder of an American Indian languages teaching license who does not also have a teaching license issued under ORS 342.125 may not teach in a school district or education service district any subject other than the American Indian language they are approved to teach by the tribe.

(c) A holder of an American Indian languages teaching license who does not also have a teaching license or registration issued under ORS 342.125 may not teach in a public charter school any subject other than the American Indian language they are approved to teach by the tribe.

(8)(a) As used in this subsection, "technical assistance program" means a program provided to an American Indian languages teacher by a licensed teacher with three or more years of teaching experience. A technical assistance program may include direct classroom observation and consultation, assistance in instructional planning and preparation, support in implementation and delivery of classroom instruction, and other assistance intended to enhance the professional performance and development of the American Indian languages teacher.

(b) The holder of an American Indian languages teaching license who does not also have an administrative license, teaching license or registration issued under ORS 342.125 and who is employed by a school district, public charter school or education service district shall participate in a technical assistance program with a person holding a teaching license issued by the commission under ORS 342.125. The technical assistance program shall meet the guidelines specified in ORS 329.815 (1) to (3).

(9) An American Indian languages teaching license shall be valid for three years and may be renewed upon application from the holder of the license. [2001 c.653 §2]

342.145 [1961 c.439 §6; 1965 c.100 §356; repealed by 1965 c.550 §6]

342.147 Approval of teacher education institutions and programs; rules. (1) After considering recommendations of the State Board of Education, the Teacher Standards and Practices Commission shall establish by rule standards for approval of teacher education institutions and teacher education programs. Public teacher education institutions shall be approved for programs of more than four years' duration only if teacher education programs which are reasonably attainable in a four-year period are also available in the system of higher education and are designed to culminate in a baccalaureate degree that qualifies its graduates for entry-level teaching licenses.

(2) The commission shall establish rules that allow teacher education programs leading to graduate degrees to commence prior to the student's completion of baccalaureate degree requirements and that allow the combined use of undergraduate and graduate level course work in achieving program completion.

(3) Whenever any teacher education institution or program is denied approved status or has such status withdrawn such denial or withdrawal must be treated as a contested case within the meaning of ORS chapter 183.

(4) Nothing in this section is intended to grant any authority to the commission relating to granting of degrees or establishing degree requirements that are within the authority of the State Board of Higher Education or any institutions under its jurisdiction or that are within the authority of the governing board of any private institution of higher education. [1973 c.270 §19; 1989 c.521 §2; 1989 c.690 §3; 1993 c.45 §159]

342.150 [1961 c.439 §7; 1963 c.173 §1; 1965 c.100 §357; repealed by 1965 c.550 §6]

342.153 Proficiency in Braille required for teaching license to provide education to blind students. (1) Any applicant for a teaching license to provide education to students who are blind, as defined in ORS 343.565, shall be required to demonstrate proficiency in reading and writing Braille, as defined in ORS 343.565.

(2) Any applicant for a teaching license to provide education to students who are blind shall be required to demonstrate proficiency by completion of grade I and grade II Braille coursework at a college level.

(3) The Teacher Standards and Practices Commission shall adopt procedures to assess the proficiencies developed through workshops and courses in grade I and grade II Braille that are consistent with standards set by the National Library Service for the Blind and Physically Handicapped at the Library of Congress. [1993 c.380 §8; 1995 c.798 §2]

Note: 342.153 was added to and made a part of 342.120 to 342.430, but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

342.155 [1961 c.439 §8; 1965 c.100 §358; 1989 c.125 §2; repealed by 1993 c.45 §160]

342.160 [1961 c.439 §9; repealed by 1965 c.100 §456 and 1965 c.550 §6]

342.165 Commission rules. (1) Pursuant to ORS chapter 183, the Teacher Standards and Practices Commission shall adopt rules necessary for the issuance, denial, continuation, renewal, lapse, revocation, suspension or reinstatement of licenses or registrations issued under ORS 342.120 to 342.430. The commission shall also adopt rules establishing means in addition to those prescribed by law whereby teachers are able to add additional indorsements to their teaching licenses.

(2) In establishing rules the commission shall consider:

(a) Its responsibilities to represent the public interest in the development of educational policies;

(b) The capabilities of Oregon teacher education institutions to prepare teachers;

(c) The norms required for the teaching assignments;

(d) The improvement of teaching;

(e) The adequacy of the teacher supply;

(f) The value of experience or nonacademic learning;

(g) The responsibilities imposed upon school districts by geographic and demographic conditions;

(h) The recommendations of the State Board of Education and Superintendent of Public Instruction; and

(i) Such other matters as tend to improve education. [1961 c.439 §10; 1965 c.100 §359; 1965 c.535 §10; 1973 c.270 §8; 1979 c.307 §1; 1993 c.45 §161; 1999 c.199 §5]

342.167 State board review of rules. (1) The Teacher Standards and Practices Commission shall notify the State Board of Education of proposed rules and shall solicit its advice before adoption.

(2) Within 60 days after receiving notice from the commission of adoption of a rule, the state board on its motion or upon request shall review the rule to determine if the rule serves the public interest.

(3) Where the state board finds pursuant to its review as held under subsection (2) of this section that the rule reviewed is not in the public interest, the state board shall request the commission to set aside or amend the rule. [1973 c.270 §20; 1993 c.45 §163]

Note: 342.167 and 342.169 were added to and made a part of 342.120 to 342.430 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

342.169 Required ratio of pupils to staff holders of first aid cards; exceptions; rules. (1) The State Board of Education shall establish by rule the ratio of the number of pupils to the number of staff members who must hold current, recognized first aid cards in each school.

(2) In order to attain or maintain the ratio set under subsection (1) of this section, the district may require any staff member as a condition of employment to hold a current, recognized first aid card. The staff member shall have 90 days from the date on which the district imposes the requirement to obtain the first aid card.

(3) The district shall waive the requirement of subsection (2) of this section for any staff member who has had the requirement waived by the Teacher Standards and Practices Commission and may waive the requirement for other staff who are unable by reason of disability to obtain recognized first aid cards.

(4) The district shall certify annually to the Department of Education that it complies with the ratio requirement set under subsection (1) of this section. [1981 c.180 §3; 1993 c.45 §165]

Note: See note under 342.167.

342.170 [1961 c.439 §11; 1965 c.100 §360; repealed by 1965 c.535 §17]

342.173 Effect of employing unlicensed teacher or administrator by certain districts. (1) Any school district which employs any person not properly licensed by the Teacher Standards and Practices Commission and assigned in accordance with the terms specified by the person's license shall forfeit in State School Fund moneys due the district an amount determined by the Teacher Standards and Practices Commission to not exceed the amount of the salary paid to the person for the time during which the person is employed. The forfeiture shall be effective unless:

(a) Such assignments are made with justification satisfactory to the Teacher Standards and Practices Commission.

(b) The teacher is employed by a post-secondary institution accredited by the Northwest Association of Schools and Colleges which has a contract with a school district under which the teacher is teaching at the high school level. The contract shall be approved annually by the State Board of Education under rules adopted by the board, including criteria for a teacher's qualifications under subparagraph (C) of this paragraph. The contract shall:

(A) Be for a specific instructional assignment for which the district does not have appropriately licensed personnel either on staff or available to be placed on staff after a reasonably diligent search;

(B) Be approved annually by the governing boards of the post-secondary institution and the school district including a written determination that appropriately licensed personnel have not become available since the previous contract for the assignment;

(C) Provide evidence that the teacher's qualifications are appropriate for the assignment;

(D) Allow the teacher to teach no more than two high school units of credit or the equivalent per year; and

(E) Not be valid during a school closure, strike or summer session.

(c) The person is teaching a live, interactive distance learning course originating outside the state.

(2) A school district shall be required under subsection (1) of this section to forfeit not more than $1,000 of State School Fund moneys due the district if the license has lapsed during the time of employment with the district and the holder had at the time the license expired all the qualifications necessary to renew the license.

(3) Notwithstanding subsections (1) and (2) of this section, a school district employing unlicensed staff members in positions requiring licensed personnel during the time of a labor dispute shall forfeit in State School Fund moneys an amount equal to the daily salary rate multiplied by the number of teaching days for each unlicensed teaching employee during the entire labor dispute.

(4) If the State Board of Education finds a contract to be in violation of the provisions of subsection (1)(b) of this section, the board shall report the violation to the Teacher Standards and Practices Commission which shall proceed as provided in subsection (1) of this section.

(5) Any education service district that employs any person not properly licensed by the Teacher Standards and Practices Commission and assigned in accordance with the terms specified in the person's license shall pay from its funds an amount determined by the Teacher Standards and Practices Commission not to exceed the amount of salary paid to the person for the time during which the person was employed. The payment shall be required unless the assignment is made with justification satisfactory to the commission. All amounts received under this subsection shall be credited to the State School Fund.

(6) An education service district shall be required under subsection (5) of this section to pay a penalty of not more than $1,000 if the license has lapsed during the time of employment with the district and the holder had at the time the license expired all the qualifications necessary to renew the license.

(7) Subject to any applicable collective bargaining agreement, an education service district required to pay any penalty under subsection (6) of this section is entitled to recover one-half of the amounts paid from the licensed personnel whose unlicensed status caused the payment. Recovery shall not exceed one-half of the amount paid that is attributable to the licensed person.

(8) The Teacher Standards and Practices Commission shall notify districts of the licensing expiration dates of their employees who are reported to the commission. The reporting shall be done in a manner specified by the commission.

(9) Subject to any applicable collective bargaining agreement, a district required to forfeit any State School Fund moneys under subsection (2) of this section is entitled to recover one-half of the amounts forfeited from the licensed personnel whose unlicensed status caused the forfeiture. Recovery shall not exceed one-half of the amount forfeited that is attributable to the particular licensed person.

(10) A school district or education service district that assigns a teacher to be present in the classroom during a live, interactive distance learning presentation shall not be subject to the forfeiture described in subsection (1) of this section solely because the assignment does not conform to the terms specified on the license of the teacher. [1965 c.100 §353; 1975 c.278 §2; 1977 c.635 §10; 1979 c.307 §2; 1981 c.469 §1; 1981 c.663 §4; 1987 c.401 §1; 1987 c.503 §1a; 1989 c.150 §1; 1989 c.162 §1; 1989 c.493 §1; 1991 c.67 §83; 1991 c.710 §2; 1991 c.780 §§22,23; 1997 c.383 §12]

342.174 [1975 c.278 §7; 1987 c.320 §156; 1993 c.45 §167; renumbered 179.405 in 1993]

(Discipline)

342.175 Grounds for discipline; reinstatement. (1) The Teacher Standards and Practices Commission may suspend or revoke the license of a teacher or administrator, discipline a teacher or administrator or suspend or revoke the right of any person to apply for a license if the person has held a license at any time within five years prior to issuance of the notice of charges under ORS 342.176 based on the following:

(a) Conviction of a crime not listed in ORS 342.143 (3);

(b) Gross neglect of duty;

(c) Any gross unfitness;

(d) Conviction of a crime for violating any law of this or any state or of the United States involving the illegal use, sale or possession of controlled substances;

(e) Any false statement knowingly made in an application for issuance, renewal or reinstatement of a license; or

(f) Failure to comply with any condition of reinstatement under subsection (3) of this section or any condition of probation under ORS 342.177 (3)(b).

(2) Notwithstanding ORS 670.280, the commission shall revoke any license or registration and shall revoke the right of any person to apply for a license or registration if the person has held a license or registration at any time within five years prior to issuance of the notice of charges under ORS 342.176 when the holder or person has been convicted of any crime described in ORS 342.143 (3).

(3) Except for convictions for crimes listed in ORS 342.143 (3) and subject to subsection (4) of this section, any person whose license or registration has been suspended or revoked or whose privilege to apply for a license or registration has been revoked may apply to the commission for reinstatement of the license or registration after one year from the date of the suspension or revocation. The commission may require an applicant for reinstatement to furnish evidence satisfactory to the commission of good moral character, mental and physical health and such other evidence as the commission may consider necessary to establish the applicant's fitness. The commission may impose a probationary period and such conditions as it considers necessary upon approving an application for reinstatement.

(4) The commission shall reconsider immediately a license or registration suspension or revocation or the situation of a person whose privilege to apply for a license or registration has been revoked, upon application therefor, when the license or registration suspension or revocation or the privilege revocation is based on a criminal conviction that is reversed on appeal.

(5) Violation of rules adopted by the commission relating to competent and ethical performance of professional duties shall be admissible as evidence of gross neglect of duty or gross unfitness.

(6) A copy of the record of conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence of a conviction described in this section. [Formerly 342.070; 1965 c.100 §361; 1971 c.743 §358; 1973 c.228 §1; 1979 c.226 §1; 1979 c.226 §1; 1979 c.307 §3a; 1987 c.158 §59; 1987 c.503 §7; 1991 c.662 §1; 1993 c.45 §168; 1993 c.301 §7; 1993 c.603 §1; 1995 c.768 §15; 1997 c.383 §15; 1997 c.864 §19; 1999 c.199 §10; 1999 c.308 §2]

342.176 Preliminary investigation of complaint; materials confidential; notice. (1) Upon receipt of a complaint or information that a person has violated ORS 342.143 or 342.175, the Teacher Standards and Practices Commission shall promptly undertake an investigation.

(2) The commission may appoint an investigator and shall furnish the investigator with appropriate professional and other special assistance reasonably required to conduct the investigation, and the investigator is empowered to subpoena witnesses over the signature of the executive director, swear witnesses and compel obedience in the same manner as provided under ORS 183.440 (2).

(3) Following completion of the investigation, the executive director shall report in writing any findings and recommendations to:

(a) The commission, meeting in executive session, at its next regular meeting following completion of the investigation; and

(b) The person against whom the charge is made.

(4) The documents and materials used in the investigation and the report of the executive director are confidential and not subject to public inspection unless the commission makes a final determination that the person charged has violated ORS 342.143 or 342.175.

(5) If the commission finds from the report that there is sufficient cause to justify holding a hearing under ORS 342.177, it shall notify in writing:

(a) The person charged, enclosing a statement of the charges and a notice of opportunity for hearing;

(b) The complainant; and

(c) The employing district, if any.

(6) If the commission finds from the report that there is not sufficient cause to justify holding a hearing under ORS 342.177, it shall notify in writing:

(a) The person charged;

(b) The complainant; and

(c) The employing district, if any.

(7) Notwithstanding ORS 192.660 (6), the commission may make its findings under this section in executive session. However, the provisions of ORS 192.660 (4) apply to the sessions. [1979 c.226 §2; 1987 c.503 §2; 1989 c.149 §1; 1991 c.662 §2; 1997 c.165 §2; 1997 c.594 §2; 2003 c.524 §5]

342.177 Hearing and decision on charges; notice. (1) Hearings under ORS 342.176 shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605. The hearing shall be private unless the person against whom the charge is made requests a public hearing. Students attending school in the district which employs the person shall not be permitted to attend any hearing except as witnesses duly subpoenaed to testify with respect to the charges made. The person against whom the charge is made shall have the right to be represented by counsel and to present evidence and argument. The evidence must be confined to the charges.

(2) The Teacher Standards and Practices Commission or the person charged may have subpoenas issued to compel attendance at the hearing. The person charged may have subpoenas issued by an attorney of record subscribed by the signature of the attorney or by the executive director. Witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the commission, shall receive fees and mileage as prescribed by law for witnesses in ORS 44.415 (2). The commission or the person charged shall have the right to compel the attendance and obedience of witnesses in the same manner as provided under ORS 183.440 (2).

(3) The commission shall render its decision at its next regular meeting following the hearing. If the decision of the commission is that the charge described in ORS 342.175 (1) has been proven, the commission may take any or all of the following disciplinary action against the person charged:

(a) Issue a public reprimand.

(b) Place the person on probation for a period not to exceed four years and subject to such conditions as the commission considers necessary.

(c) Suspend the license of the teacher or administrator for a period not to exceed one year.

(d) Revoke the license of the teacher or administrator.

(e) Revoke the privilege to apply for a license.

(4) If the decision of the commission is that the charge is not proven, the commission shall order the charges dismissed.

(5) The commission shall notify in writing the person charged, the school district by which the person is employed and the Superintendent of Public Instruction of the decision. [1965 c.100 §363; 1965 c.535 §11; 1973 c.228 §2; 1979 c.226 §3; 1989 c.149 §2; 1991 c.662 §3; 1997 c.165 §3; 1999 c.849 §§69,70; 2003 c.75 §33]

342.180 Appeal. (1) Any person whose license or registration has been suspended or revoked or who has been disciplined, or who has been refused issuance or reinstatement of a license or registration, and is aggrieved at the decision of the Teacher Standards and

Practices Commission, may appeal in the manner provided in ORS 183.480.

(2) If the Superintendent of Public Instruction, the district school board or the public charter school employing the teacher or administrator is aggrieved at the decision of the commission, the superintendent, the board or the school may appeal from the decision in the manner provided in ORS 183.480.

(3) Unless the decision of the commission is accompanied by a finding that immediate suspension or revocation of the teaching license or registration is necessary to protect the safety and well-being of students, an appeal made under this section in a proceeding to suspend or revoke shall operate as a stay of the suspension or revocation, if any, until the determination of the appeal. [Formerly 342.075; 1965 c.100 §364; 1973 c.228 §3; 1999 c.199 §7]

342.185 [1961 c.677 §3; 1965 c.100 §365; repealed by 1973 c.228 §10]

342.190 Administrative Procedures Act not applicable to proceedings for reinstatement, revocation or suspension. Except as otherwise specifically provided, ORS chapter 183 does not apply to proceedings under ORS 342.175, 342.177 and 342.180. [1961 c.677 §4; 1965 c.100 §366; 1973 c.228 §4]

(Miscellaneous)

342.195 Teaching licenses based on experience in certain federal programs. Upon payment of the required fees, an otherwise qualified applicant for an initial or basic teaching license shall be granted the license upon showing by proof satisfactory to the Teacher Standards and Practices Commission that the applicant has completed under an Armed Forces of the United States or Peace Corps program, or as a volunteer under section 603 of the Economic Opportunity Act of 1964 (Public Law 88-452), two years of satisfactory service which emphasized teaching in any preprimary program or in any grades 1 through 12 in subjects regularly taught in public schools if the applicant either:

(1) Has completed an approved teacher education program; or

(2) Has at least the baccalaureate degree from an accredited institution of higher education and has completed a teacher training program provided under the auspices of the federal program. [1967 c.304 §2; 1973 c.270 §9; 1993 c.45 §307; 1997 c.383 §13]

342.200 Administrative licenses based on professional skills and experience. In order to allow the school districts of the state to take full advantage of various professional skills and disciplines not directly developed through teaching experience or professional education for which teaching experience is a prerequisite, it is the public policy of the State of Oregon that the Teacher Standards and Practices Commission, in establishing professional requirements and experience under ORS 342.140, shall consider professional skills, education and experience not directly related to, nor contingent upon, teaching experience or training as a classroom teacher. [1971 c.570 §1; 1973 c.270 §10]

342.203 Circulation of list of teachers and administrators subjected to discipline. (1) Annually not later than March 1, the Teacher Standards and Practices Commission shall cause to be circulated among all of the common and union high school districts and education service districts in this state a list of all teachers and administrators whose teaching or administrative licenses have been suspended or revoked or who have been reprimanded or placed on probation during the preceding 12 months.

(2) If the decision of the commission is appealed under ORS 342.180, the teacher's or administrator's name shall not be placed on the list authorized by subsection (1) of this section unless and until such decision has been sustained by the Court of Appeals or until the appeal has been dropped. [1973 c.228 §5; 1993 c.45 §169]

342.205 [Repealed by 1965 c.608 §21]

342.210 [Amended by 1955 c.281 §1; 1959 c.433 §1; repealed by 1965 c.608 §21]

342.215 [Repealed by 1957 c.591 §1]

342.216 [1957 c.590 §2; repealed by 1965 c.608 §21]

342.218 [1961 c.69 §§2,3; repealed by 1965 c.608 §21]

342.220 [Amended by 1957 c.591 §2; repealed by 1965 c.608 §21]

(Criminal Records Check)

342.223 Fee for criminal record search; effect of refusal to consent or to be fingerprinted or of making false statement; appeal of refusal to issue or renew license or registration. (1) The Teacher Standards and Practices Commission may charge a subject individual, as defined in ORS 181.539 (5)(d)(A) to (C), (G) and (J), a fee not to exceed $42 for the cost of acquiring and furnishing the information described in ORS 181.525 and 181.539.

(2) A refusal to consent to the criminal records check described in ORS 181.525 and 181.539 or a refusal to be fingerprinted upon request of the commission or the making of any false statement as to the conviction of a crime shall be grounds for refusal to issue, renew or reinstate a license, certificate or registration and is in addition to the grounds stated in ORS 342.143. The criminal record is confidential and shall be available only to the subject individual.

(3) The subject individual may appeal the refusal to issue an initial license, certificate or registration under this section as a contested case under ORS 183.413 to 183.470, but the refusal to renew or reinstate a license or registration is subject to ORS 342.175 to 342.180, and the commission shall notify the subject individual of the right to appeal. [1993 c.674 §5; 1995 c.446 §9; 1999 c.199 §9; 2001 c.407 §5]

342.225 [Amended by 1957 c.591 §3; repealed by 1965 c.608 §21]

342.227 Issuance of temporary license or certificate pending result of check. The Teacher Standards and Practices Commission may issue to an individual a temporary license or certificate as a teacher, administrator, personnel specialist or school nurse pending the return of the criminal records check by the Federal Bureau of Investigation. [1993 c.674 §6]

342.230 [Amended by 1957 c.591 §4; repealed by 1965 c.608 §21]

342.232 Employment pending result of check. (1) A school district, education service district, private school or public charter school may authorize an individual described under ORS 181.539 (5)(d)(D), (H) or (I) to begin carrying out the terms of a contract pending the return of the criminal records check by the Federal Bureau of Investigation.

(2) A school district, education service district, private school or public charter school may hire on a probationary basis an individual described under ORS 181.539 (5)(d)(E) or (I) pending the return of the criminal records check by the Federal Bureau of Investigation. [1993 c.674 §6a; 1995 c.67 §41; 1997 c.536 §4; 1999 c.200 §34; 1999 c.1054 §6; 2001 c.407 §6]

342.235 [Amended by 1959 c.433 §2; repealed by 1965 c.608 §21]

342.240 [Repealed by 1965 c.608 §21]

342.245 [Repealed by 1965 c.608 §21]

342.250 [Amended by 1957 c.211 §1; repealed by 1965 c.608 §21]

342.252 [1955 c.281 §3; repealed by 1965 c.608 §21]

342.255 [Repealed by 1965 c.608 §21]

342.260 [Repealed by 1965 c.608 §21]

342.265 [Repealed by 1965 c.608 §21]

342.270 [Repealed by 1965 c.608 §21]

342.275 [Repealed by 1965 c.608 §21]

342.280 [Repealed by 1965 c.608 §21]

342.285 [Repealed by 1965 c.608 §21]

342.290 [Repealed by 1965 c.608 §21]

342.295 [Repealed by 1965 c.608 §21]

342.300 [Repealed by 1965 c.608 §21]

342.305 [Repealed by 1965 c.608 §21]

342.310 [Repealed by 1965 c.608 §21]

342.315 [Repealed by 1965 c.608 §21]

342.320 [Repealed by 1965 c.608 §21]

342.325 [Repealed by 1965 c.608 §21]

342.330 [Amended by 1953 c.638 §2; 1959 c.400 §4; repealed by 1965 c.608 §21]

342.340 [1965 c.535 §1; 1975 c.278 §3; 1991 c.144 §2; repealed by 1993 c.45 §170]

TEACHER STANDARDS AND PRACTICES COMMISSION

342.350 Commission established; confirmation; term; vacancy; effect of change in circumstances. (1) There is created a Teacher Standards and Practices Commission consisting of 17 members appointed by the Governor subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.

(2) The term of office of a member is three years. Before the expiration of the term of a member, the Governor shall appoint a successor to assume the duties on January 1 next following. A member is eligible for reappointment but only for one additional term. In case of a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(3) Any member who through change of employment standing or other circumstances no longer meets the criteria for the position to which the member was appointed shall no longer be eligible to serve in that position, and the position on the commission shall become vacant 60 days following the member's change in circumstances. [1965 c.535 §2; 1973 c.270 §11; 1975 c.278 §4; 1979 c.307 §4]

342.360 Members; qualifications. (1) The membership of the Teacher Standards and Practices Commission shall consist of:

(a) Four elementary teachers;

(b) Four junior or senior high school teachers;

(c) One elementary school administrator;

(d) One junior or senior high school administrator;

(e) One superintendent of city schools;

(f) One county superintendent or a superintendent employed by an education service district board;

(g) One member from the faculty of an approved private teacher education institution in Oregon;

(h) One member from the faculty of a state institution of higher education;

(i) One member who is also a member of a district school board; and

(j) Two members of the general public.

(2) Except for those members appointed under subsection (1)(i) and (j) of this section, members must have been actively engaged in teaching, supervising or administering in the public schools or in approved teacher educa-

tion institutions in Oregon for the period of five years immediately preceding appointment. Acting as an elected representative of teachers, supervisors or administrators shall be considered teaching, supervising or administering for the purposes of the five-year experience requirement. In addition, members appointed under subsection (1)(a) to (f) of this section must hold valid Oregon teaching or administrative licenses other than restricted teaching or administrative licenses.

(3)(a) Throughout the term for which appointed, one of the members appointed under subsection (1)(a) to (j) of this section must hold a teaching license with an indorsement in some aspect of special education or have demonstrated knowledge or experience in special education.

(b) As used in this subsection, "special education" means specially designed education to meet the goals of the individual education program of a child with disabilities including regular classroom instruction, instruction in physical education, home instruction, related services and instruction in hospitals, institutions and special schools. [1965 c.535 §3; 1973 c.270 §12; 1975 c.278 §5; 1979 c.307 §5; 1987 c.503 §9; 1989 c.244 §1; 1993 c.45 §171]

342.370 [1965 c.535 §5; 1975 c.278 §6; repealed by 1979 c.307 §8]

342.380 Organization. (1) The Teacher Standards and Practices Commission shall select one of its members as chairperson, and another as vice chairperson, for such terms and with such powers and duties necessary for the performance of the functions of such offices as the commission shall determine.

(2) A majority of the commission constitutes a quorum for the transaction of business. [1965 c.535 §6]

342.390 Meetings; expenses. (1) The Teacher Standards and Practices Commission shall meet at least once every six months at a place, day and hour determined by the commission. The commission shall also meet at such other times and places as are specified by the call of the chairperson or of a majority of the members of the commission.

(2) A member of the commission who is employed at a public school or by a private teacher education institution or by a state institution of higher education shall receive no compensation for services as a member; but subject to any other applicable law regulating travel and other expenses for state officers, the member shall receive actual and necessary travel and other expenses incurred in the performance of official duties as provided by ORS 292.495 (2).

(3) A member of the commission who serves on the commission in the capacity of a district school board member or as a member of the general public shall be entitled to compensation and expenses as provided in ORS 292.495 (1) and (2). [1965 c.535 §§7,8; 1991 c.662 §4; 1993 c.45 §172]

342.400 Licensing requirements for out-of-state applicants; reciprocal agreements; rules. (1) Except as provided in subsection (4) of this section, the Teacher Standards and Practices Commission shall not issue a license to an out-of-state applicant unless the applicant has met the professional requirements established by rule by the commission and has completed a course of study substantially similar to that required for an in-state applicant.

(2) Notwithstanding subsection (1) of this section, if the commission establishes that the position or positions to be filled are in a geographic or subject matter area in which there are an insufficient number of in-state applicants, the commission may issue a license to an out-of-state applicant who has completed a course of study approved by the commission.

(3) In situations described in subsection (2) of this section, the commission shall adopt by rule standards providing for equal treatment for graduates of approved Oregon colleges and universities.

(4) Notwithstanding subsection (1) of this section, the commission may enter into a reciprocal agreement with the appropriate official of any other state for licensure of applicants from the state if the commission determines that the standards and requirements for certification or licensure in that state are substantially similar to the standards and requirements for licensure under applicable statutes of this state and rules of the commission.

(5) Teachers granted licenses under subsections (2), (3) and (4) of this section shall be required to meet all standards required of Oregon teachers, including the requirements of ORS 342.123, not later than three years following the date of initial granting of the license. [1965 c.535 §9; 1973 c.270 §13; 1979 c.307 §6; 1981 c.663 §5; 1987 c.503 §8; 1993 c.45 §173; 1993 c.333 §1]

342.410 Executive director; employees. The Teacher Standards and Practices Commission shall appoint a qualified person as executive director and may, subject to the State Personnel Relations Law, employ persons to provide such service as the commission shall require. [1965 c.535 §12; 1973 c.270 §14; 1997 c.165 §4]

342.420 Member's salary; reimbursement to district. (1) Membership on the Teacher Standards and Practices Commission shall not affect a member's compensation from the employer of the member or any

other benefits to which the member is entitled.

(2) A school district required to employ a substitute for a teacher or administrator who is absent from employment while performing duties as a member of the Teacher Standards and Practices Commission shall be entitled to reimbursement for the district's actual expenses in employing the substitute. Reimbursement for the expense of employing such substitutes shall be made by the commission from the Teacher Standards and Practices Commission Account. [1965 c.535 §13]

342.430 Teacher Standards and Practices Commission Account; use. On or before the 10th day of each month, the Teacher Standards and Practices Commission shall pay into the State Treasury all moneys received under this chapter during the preceding calendar month. The State Treasurer shall credit the moneys to the Teacher Standards and Practices Commission Account. The moneys in the Teacher Standards and Practices Commission Account are continuously appropriated to the commission for the purpose of paying its administrative expenses. [1965 c.535 §15; 1967 c.637 §8; 1973 c.270 §15; 1993 c.45 §174]

MINORITY TEACHER ACT

342.433 Definitions for ORS 342.433 to 342.449. As used in ORS 342.433 to 342.449 and 351.077:

(1) "Minority" means a person who is:

(a) A person having origins in any of the black racial groups of Africa but who is not Hispanic;

(b) A person of Hispanic culture or origin;

(c) A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands; or

(d) An American Indian or Alaskan Native having origins in any of the original peoples of North America.

(2) "Teacher" includes a teacher or an administrator. [1991 c.434 §6; 1993 c.45 §175]

342.435 [1977 c.635 §8; repealed by 1981 c.469 §6]

342.437 Goals. The State of Oregon is committed to ethnic-racial equity and, therefore, it is the goal of the state that by the year 2001 the number of minority teachers, including administrators, employed by school districts and education service districts shall be approximately proportionate to the number of minority children enrolled in the public schools of this state. [1991 c.434 §2]

342.440 [1971 c.755 §2; repealed by 1973 c.536 §39]

342.443 Reports to legislature; comparative data; data collection. (1) The Education and Workforce Policy Advisor shall report biennially to the Legislative Assembly longitudinal data on the number and percentage of:

(a) Minority students enrolled in community colleges;

(b) Minority students applying for admission to public four-year institutions of higher education;

(c) Minority students accepted in public four-year institutions of higher education;

(d) Minority students graduated from public four-year institutions of higher education;

(e) Minority candidates seeking to enter public teacher education programs in this state;

(f) Minority candidates admitted to public teacher education programs;

(g) Minority candidates who have completed approved public teacher education programs;

(h) Minority candidates receiving Oregon teaching licenses based on preparation in this state and preparation in other states;

(i) Minority teachers who are newly employed in the public schools in this state; and

(j) Minority teachers already employed in the public schools.

(2) The advisor also shall report comparisons of minorities' and nonminorities' scores on basic skills, pedagogy and subject matter tests.

(3) The Oregon University System, the Department of Education, the Teacher Standards and Practices Commission, community colleges and school districts shall cooperate with the advisor in collecting data and preparing the report. [1991 c.434 §3; 1997 c.652 §30]

342.445 [1977 c.635 §9; renumbered 342.485]

342.447 Plans for recruitment, admission, retention and graduation of minority teachers; rules. (1) The State Board of Higher Education shall require each public teacher education program in this state to prepare a plan with specific goals, strategies and deadlines for the recruitment, admission, retention and graduation of minority teachers.

(2) The state board shall review the plans for the adequacy and feasibility of the plans and, after making necessary revisions, shall adopt the plans.

(3) The state board shall adopt rules governing:

(a) The contents of the plans;

(b) The state board's initial and biennial review process, including timetables for revising plans; and

(c) Other matters necessary for carrying out the provisions of ORS 342.433 to 342.449 and 351.077. [1991 c.434 §4]

342.449 Short title. ORS 342.433 to 342.449 and 351.077 shall be known and may be cited as the Minority Teacher Act of 1991. [1991 c.434 §1]

342.450 [1965 c.390 §1; 1969 c.647 §1; repealed by 1973 c.536 §39]

SCHOOL NURSES

342.455 Definition of "school nurse." "School nurse" as used in ORS 342.465 and 342.475, means a registered nurse who is certified by the Teacher Standards and Practices Commission as qualified to conduct and coordinate the health services programs of a school. [Formerly 678.505]

342.460 [1965 c.390 §§2,3; 1969 c.647 §2; 1971 c.755 §3; repealed by 1973 c.536 §39]

342.465 Rules; notice if action taken on license. (1) The Teacher Standards and Practices Commission shall adopt by rule standards necessary for the issuance, denial, continuation, renewal, lapse or reinstatement of certificates issued under ORS 342.475 (1) to (3) and for establishment and collection of fees for certification as a school nurse. The commission may adopt by rule procedures for revocation of a certificate issued under ORS 342.475 (1) to (3) that are consistent with ORS 342.175 to 342.190.

(2) The Oregon State Board of Nursing shall notify the commission whenever the board takes any action on a license issued under ORS chapter 678 which might affect the ability of the license holder to practice as a school nurse. [Formerly 678.525; 1993 c.45 §176]

342.470 [1965 c.390 §4; 1969 c.647 §3; 1971 c.755 §4; repealed by 1973 c.536 §39]

342.475 School nurses; certificates. (1) "School nurse" is established as a category of specialization in nursing.

(2) The Teacher Standards and Practices Commission shall issue a certificate as a school nurse to a person who complies with the rules established by the commission for the certification and practice of school nursing or who has been certified by the Oregon State Board of Nursing as a school nurse practitioner. In establishing rules for the certification and practice of any specialization of school nursing, the commission shall consider the recommendations of the Oregon State Board of Nursing.

(3) The commission may issue an emergency certificate that authorizes a person licensed as a registered nurse in this state who does not meet the requirements of subsection (2) of this section to practice as a school nurse. Such certificates shall be issued for a limited time as set by the commission.

(4) Notwithstanding subsections (1) to (3) of this section, the commission shall issue a certificate in a school nurse specialization category to a registered nurse who applies for certification and who is employed by a school, school district or education service district to conduct and coordinate a school or district health services program or who serves in such a capacity on a voluntary basis on November 1, 1981. A certificate issued under this subsection shall be issued without further proof of qualification by the applicant.

(5) A certificate issued under this section is not a teaching license. The nurse holding a certificate issued under this section is not subject to ORS 238.280 or 342.805 to 342.937. [Formerly 678.515]

342.480 [1971 c.755 §5; repealed by 1973 c.536 §39]

342.485 Commission to consult with and advise Oregon State Board of Nursing on school nursing. The Teacher Standards and Practices Commission shall consult with and advise the Oregon State Board of Nursing on the qualifications and practices involved in school nursing. [Formerly 342.445]

342.495 Holder of school nurse certificate qualified to conduct and coordinate health services program. (1) The holder of a school nurse certificate issued under ORS 342.475 (1) to (3) is qualified to accept employment to conduct and coordinate the health services programs of any public school in the State of Oregon. A person licensed as a registered nurse may use the term "nurse" as part of a title when employed by a school.

(2) No school or school district is required to employ as a nurse a person certified under ORS 342.475 (1) to (3). [Formerly 342.982]

342.505 [Amended by 1955 c.219 §1; 1961 c.383 §1; 1965 c.100 §367; repealed by 1993 c.45 §177]

342.508 [1957 c.446 §1; 1965 c.100 §368; 1965 c.608 §20; repealed by 1973 c.298 §9]

342.510 [Amended by 1965 c.100 §380; renumbered 342.965]

TEACHERS' CONTRACTS

342.513 Renewal or nonrenewal of contracts for following year. (1) Each district school board shall give written notice of the renewal or nonrenewal of the contract for the following school year by March 15 of each year to all teachers and administrators in its employ who are not contract teachers as defined in ORS 342.815. In case the district school board does not renew the contract, the material reason therefor shall, at

the request of the teacher or administrator, be spread upon the records of the school district and the board shall furnish a statement of the reason for nonrenewal to the teacher or administrator. If any district school board fails to give such notice by March 15, the contract shall be considered renewed for the following school year at a salary not less than that being received at the time of renewal. The teacher or administrator may bring an action of mandamus to compel the district school board to issue such a contract for the following school year.

(2) This section is not effective unless teachers or administrators notify the board in writing on or before April 15 of acceptance or rejection of the position for the following school year. [Formerly 342.635; 1975 c.770 §47; 1979 c.714 §1; 1997 c.864 §24]

342.515 [Amended by 1965 c.100 §381; repealed by 1993 c.45 §178]

342.520 [Amended by 1959 c.361 §1; 1965 c.100 §382; renumbered 342.970]

342.525 [Amended by 1965 c.100 §383; renumbered 342.613]

342.530 [Amended by 1965 c.100 §370; 1967 c.324 §1; 1969 c.84 §1; repealed by 1973 c.298 §9]

342.535 [Amended by 1965 c.100 §371; repealed by 1969 c.84 §2]

342.540 [Amended by 1965 c.100 §372; repealed by 1969 c.84 §2]

342.545 Termination of teacher's contract; release. (1) Sickness or other unavoidable circumstances which prevent the teacher from teaching 20 school days immediately following exhaustion of sick leave accumulated under ORS 332.507 shall be sufficient reason for the school board to place the teacher on leave without pay for the remainder of the regular school year and to terminate the teacher's employment without penalty on August 1 if the school board determines that the teacher is unable to resume teaching responsibilities at the beginning of the next fall term. This subsection applies to teachers whose employment is based either upon contract or tenure, or both.

(2) A district school board may release a teacher from a contract by mutual agreement. No board is required to consider any resignation not in writing. [Formerly 342.640; amended by 1969 c.106 §1; 1977 c.860 §2; 1979 c.269 §1]

342.550 [Repealed by 1965 c.100 §456]

342.553 Suspension of teaching license for resigning without providing required notice; appeal. (1) Any elementary or secondary teacher who has entered into a contract to teach in any public school and who resigns the position without first providing 60 days' written notice to the district superintendent or the notice required in the applicable collective bargaining agreement may have the teaching license of the teacher suspended for the remainder of the school year by the Teacher Standards and Practices Commission upon notice of the resignation from the district school board to the commission. The commission shall notify the teacher of the suspension of the teaching license held by the teacher.

(2) Any teacher whose teaching license has been suspended under subsection (1) of this section may appeal to the Teacher Standards and Practices Commission within 20 days after the date of the notice of the suspension. The notice of appeal must be in writing and sent to the Teacher Standards and Practices Commission not later than one day following the 20-day period. The Teacher Standards and Practices Commission shall fix the earliest possible date for a hearing on the suspension and shall notify the teacher and the district school board concerned. The decision of the Teacher Standards and Practices Commission is final.

(3) If an appeal is made to the Teacher Standards and Practices Commission, suspension of the teaching license shall be stayed until the Teacher Standards and Practices Commission reaches a decision. [Formerly 342.645; 1975 c.258 §1]

342.555 [Repealed by 1965 c.100 §456]

342.560 [Amended by 1955 c.618 §1; 1965 c.100 §384; renumbered 342.975]

342.565 [Repealed by 1965 c.100 §456]

342.570 [Repealed by 1965 c.100 §456]

342.575 [Amended by 1955 c.618 §2; 1965 c.100 §385; renumbered 342.980]

342.580 [Repealed by 1965 c.100 §456]

342.585 [Repealed by 1965 c.100 §456]

342.590 [Repealed by 1963 c.544 §52]

342.595 [Amended by 1953 c.392 §2; 1961 c.357 §1; 1963 c.211 §1; 1965 c.100 §375; 1975 c.431 §1; repealed by 1977 c.860 §5]

342.596 [1957 c.457 §1; 1963 c.122 §1; 1965 c.100 §376; 1965 c.183 §1; 1977 c.860 §3; 1991 c.599 §1; renumbered 332.507 in 1993]

342.598 [1965 c.254 §1; renumbered 332.432 in 1993]

342.599 [1977 c.826 §3; repealed by 1993 c.45 §180]

342.600 [Amended by 1955 c.101 §2; 1961 c.439 §12; 1963 c.544 §50a; 1965 c.100 §378; 1965 c.216 §1; repealed by 1967 c.67 §13 (342.601 enacted in lieu of 342.600)]

342.601 [1967 c.67 §14 (enacted in lieu of 342.600); 1975 c.278 §8; 1975 c. 770 §48a; 1981 c.128 §1 repealed by 1983 c.187 §1]

342.602 [Formerly 342.065; 1965 c.100 §379; repealed by 1973 c.458 §3]

342.604 [1971 c.519 §2; 1989 c.491 § 28; renumbered 332.534 in 1993]

342.605 [Repealed by 1965 c.100 §456]

TERMS AND CONDITIONS OF EMPLOYMENT OF SCHOOL PERSONNEL

342.608 Working hours for licensed personnel; duty-free lunch period required; exception. (1) School boards shall fix the working hours for full-time and part-time licensed staff members. They shall direct that full-time staff members be provided a time for a 30-minute continuous duty-free lunch period during the regularly scheduled lunch hours.

(2) Any school principal who fails to schedule a continuous 30-minute duty-free lunch period in accordance with this section shall be guilty of neglect of duty under ORS 342.865.

(3) No teacher shall by oral orders or written agreement fail to receive a 30-minute lunch period.

(4) School boards shall not be required to employ special personnel to supervise students during lunch periods.

(5) This section does not apply in school buildings where fewer than three teachers are employed. [1971 c.201 §1]

342.609 [1977 c.137 §1; renumbered 336.081 in 1993]

342.610 Minimum salary for substitute teachers. (1) Teachers employed as substitute teachers shall not be paid less per day than 85 percent of 1/190th of the salary of a beginning teacher who holds a bachelor's degree. The salary of the substitute teacher shall be computed as required in this subsection based on the statewide average salary for beginning teachers who hold bachelor's degrees. The Department of Education shall compute the statewide average salary to be used for purposes of this subsection, using the latest data available to the department, but not data from earlier than the preceding school year.

(2) The school district shall set the working hours for a substitute teacher, and, when employed, shall pay the substitute teacher a salary which is no less than one-half of the daily minimum salary as computed under subsection (1) of this section. However, if the substitute teacher is employed for more than one-half day, the substitute teacher shall receive a full day's pay.

(3)(a) Notwithstanding subsection (1) of this section, teachers employed as substitute teachers for more than 10 consecutive days in any one assignment for the same teacher shall not be paid after the 10th day of the assignment less per day than 100 percent of 1/190th of the statewide average salary computed in subsection (1) of this section for districts with no salary scale; or, for districts with a salary scale, the higher of:

(A) 1/190th of the employing school district's salary for a beginning teacher who holds a bachelor's degree; or

(B) The statewide minimum per diem salary as computed in subsection (1) of this section.

(b) Used sick leave, whether paid or unpaid, and weekends, school holidays and days when schools are closed by weather or other conditions and when substitute teachers are not required to appear in person at the school shall not be considered in determining consecutive days for purposes of this subsection.

(c) When substituting for a part-time teacher, the part of the day worked by the substitute shall count as a full day in determining consecutive days for purposes of this subsection.

(4) Subsections (1) to (3) of this section do not apply to substitute teachers represented in a bargaining unit in the school district by which they are employed. [Amended by 1955 c.130 §1; 1957 c.262 c.1; 1965 c.100 §377; 1967 c.625 §1; 1971 c.536 §1; 1977 c.531 §1; 1979 c.167 §1; 1987 c.402 §1; 1991 c.198 §1; 1995 c.793 §1; 1999 c.706 §1]

342.613 Contracts with teachers for return of part of salary prohibited. No district shall enter into a contract with any teacher whereby the teacher shall return to the district any part of the salary of the teacher. If any board and teacher enter into such contract, the contract is void and the teacher's teaching license shall be revoked. [Formerly 342.525; 1967 c.67 §12]

342.615 [Amended by 1965 c.100 §386; repealed by 1979 c.166 §1]

342.617 [1985 c.585 §2; 1993 c.45 §184; renumbered 332.554 in 1993]

342.620 [Repealed by 1979 c.166 §1]

342.625 [Repealed by 1979 c.166 §1]

342.630 [Repealed by 1965 c.100 §456]

342.635 [Amended by 1957 c.443 §1; 1965 c.100 §369; renumbered 342.513]

342.640 [Amended by 1965 c.100 §373; 1965 c.163 §1; renumbered 342.545]

342.645 [Amended by 1953 c.36 §2; 1959 c.441 §1; 1965 c.100 §374; renumbered 342.553]

342.650 Wearing of religious dress prohibited. No teacher in any public school shall wear any religious dress while engaged in the performance of duties as a teacher. [Amended by 1965 c.100 §387]

342.655 Sanctions against teacher violating ORS 342.650. Any teacher violating the provisions of ORS 342.650 shall be suspended or dismissed from employment by the district school board. The suspension or dismissal is not subject to ORS 342.805 to 342.937. The board shall report its action to the Teacher Standards and Practices Commission which may suspend or revoke the

teacher's teaching license. [Amended by 1965 c.100 §388; 1987 c.503 §3]

342.660 [Repealed by 1965 c.100 §456]

342.663 [1969 c.266 §§1,2,3; 1993 c.45 §186; renumbered 332.544 in 1993]

342.665 [Amended by 1961 c.204 §1; repealed by 1965 c.100 §456]

342.670 [Repealed by 1965 c.100 §456]

342.675 [Repealed by 1965 c.100 §456]

342.680 [Repealed by 1965 c.100 §456]

342.685 [Repealed by 1965 c.100 §456]

SEXUAL HARASSMENT

342.700 Policy on sexual harassment; posting and availability of policy. It is the policy of the State of Oregon that sexual harassment will not be tolerated in schools. A school district shall adopt a policy on sexual harassment for students and staff that meets the requirements of ORS 342.704. A school district shall make the sexual harassment policy available to students, parents of students and staff. A school district's sexual harassment policy shall be posted on a sign that is at least 8.5 by 11 inches in size. The school district shall post the sign in all grade 6 through 12 schools in the school district. [1997 c.272 §1]

Note: 342.700 to 342.708 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 342 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

342.704 Adoption of school district policies on sexual harassment required; contents; rules. (1) The State Board of Education shall adopt by rule minimum requirements for school district policies on sexual harassment of students by staff and other students including, but not limited to, requirements that:

(a) All staff and students are subject to the policies;

(b) Sexual harassment of students includes:

(A) A demand for sexual favors in exchange for benefits; and

(B) Unwelcome conduct of a sexual nature that has the purpose or effect of unreasonably interfering with a student's educational performance or that creates an intimidating, offensive or hostile educational environment;

(c) All complaints about behavior that may violate the policy shall be investigated;

(d) The initiation of a complaint in good faith about behavior that may violate the policy shall not adversely affect the educational assignments or study environment of the student; and

(e) The student who initiated the complaint and the student's parents shall be notified when the investigation is concluded.

(2) The State Board of Education shall adopt by rule minimum requirements for school district policies on sexual harassment of staff by students and other staff including, but not limited to, requirements that:

(a) All staff and students are subject to the policies;

(b) Sexual harassment of staff includes:

(A) A demand for sexual favors in exchange for benefits; and

(B) Unwelcome conduct of a sexual nature that has the purpose or effect of unreasonably interfering with a staff person's ability to perform the job or that creates an intimidating, offensive or hostile work environment;

(c) All complaints about behavior that may violate the policy shall be investigated;

(d) The initiation of a complaint in good faith about behavior that may violate the policy shall not adversely affect any terms or conditions of employment or work environment of the staff complainant; and

(e) The staff member who initiated the complaint shall be notified when the investigation is concluded. [1997 c.272 §2]

Note: See note under 342.700.

342.708 ORS 342.700 and 342.704 not limitation on or prerequisite for other rights and remedies. Nothing in ORS 342.700 and 342.704 is intended to limit or operate as a prerequisite to pursuing any rights or remedies provided under other statutes or the common law. [1997 c.272 §3]

Note: See note under 342.700.

342.710 [1971 c.582 §1; repealed by 1973 c.536 §39]

342.720 [1971 c.582 §§2,7; repealed by 1973 c.536 §39]

342.730 [1971 c.582 §3; repealed by 1973 c.536 §39]

342.740 [1971 c.582 §4; repealed by 1973 c.536 §39]

342.750 [1971 c.582 §5; repealed by 1973 c.536 §39]

342.760 [1971 c.582 §6; repealed by 1973 c.536 §39]

342.770 [1971 c.582 §8; repealed by 1973 c.536 §39]

342.780 [1971 c.582 §9; repealed by 1973 c.536 §39]

342.782 [1987 c.896 §14; 1989 c.187 §7; repealed by 1993 c.45 §187]

342.784 [1987 c.896 §15; renumbered 329.790 in 1993]

342.786 [1987 c.896 §§16, 28; 1989 c.187 §8; 1993 c.45 §189; renumbered 329.795 in 1993]

342.788 [1987 c.896 §17; 1989 c.187 §9; 1993 c.45 §190; renumbered 329.800 in 1993]

342.790 [1987 c.896 §§18, 22; 1989 c.187 §10; 1993 c.45 §191; renumbered 329.805 in 1993]

342.792 [1987 c.896 §19; 1993 c.45 §192; renumbered 329.810 in 1993]

342.794 [1987 c.896 §20; 1989 c.187 §11; renumbered 329.815 in 1993]

342.796 [1987 c.896 §21; 1991 c.67 §84; 1993 c.45 §193; renumbered 329.820 in 1993]

342.798 [1987 c.896 §23; repealed by 1989 c.187 §13]

ACCOUNTABILITY FOR SCHOOLS FOR THE 21ST CENTURY LAW

342.805 Short title. ORS 342.805 to 342.937 shall be known as the Accountability for Schools for the 21st Century Law. [1965 c.608 §1; 1971 c.570 §2; 1977 c.881 §1; 1997 c.864 §26]

342.815 Definitions for ORS 342.805 to 342.937. As used in ORS 342.805 to 342.937 unless the context requires otherwise:

(1) Notwithstanding ORS 342.120, "administrator" includes any teacher the majority of whose employed time is devoted to service as a supervisor, principal, vice principal or director of a department or the equivalent in a fair dismissal district but shall not include the superintendent, deputy superintendent or assistant superintendent of any such district or any substitute or temporary teacher employed by such a district.

(2) "Board" means the board of directors of a fair dismissal school district.

(3) "Contract teacher" means any teacher who has been regularly employed by a school district for a probationary period of three successive school years, and who has been retained for the next succeeding school year. The district school board may enter into agreements that provide for a shorter probationary period of not less than one year for teachers who have satisfied the three-year probationary period in another Oregon school district.

(4) "District superintendent" means the superintendent of schools of a fair dismissal district or, in the absence of the superintendent, the person designated to fulfill the superintendent's functions.

(5) "Fair dismissal district" means any common or union high school district or education service district.

(6) "Probationary teacher" means any teacher employed by a fair dismissal district who is not a contract teacher.

(7) "Program of assistance for improvement" means a written plan for a contract teacher that with reasonable specificity:

(a) Helps teachers adapt and improve to meet changing demands of the Oregon Educational Act for the 21st Century in ORS chapter 329 if applicable.

(b) Identifies specific deficiencies in the contract teacher's conduct or performance.

(c) Sets forth corrective steps the contract teacher may pursue to overcome or correct the deficiencies.

(d) Establishes the assessment techniques by which the district will measure and determine whether the teacher has sufficiently corrected the deficiencies to meet district standards.

(8) "Substitute teacher" means any teacher who is employed to take the place of a probationary or contract teacher who is temporarily absent.

(9) Notwithstanding ORS 342.120, "teacher" means any person who holds a teaching license or registration as provided in ORS 342.125 or 342.144 or who is otherwise authorized to teach in the public schools of this state and who is employed half time or more as an instructor or administrator.

(10) "Temporary teacher" means a teacher employed to fill a position designated as temporary or experimental or to fill a vacancy which occurs after the opening of school because of unanticipated enrollment or because of the death, disability, retirement, resignation, contract nonextension or dismissal of a contract or probationary teacher. [1965 c.608 §2; 1971 c.570 §12; 1977 c.880 §1; 1977 c.881 §2; 1979 c.668 §1; 1981 c.299 §1; 1993 c.45 §194; 1997 c.864 §4; 1999 c.199 §11; 2001 c.653 §5]

342.825 [1965 c.608 §3; 1973 c.298 §1; repealed by 1977 c.881 §8]

342.835 Probationary teacher. (1) The district board of any fair dismissal district may discharge or remove any probationary teacher in the employ of the district at any time during a probationary period for any cause considered in good faith sufficient by the board. The probationary teacher shall be given a written copy of the reasons for the dismissal, and upon request shall be provided a hearing thereon by the board, at which time the probationary teacher shall have the opportunity to be heard either in person or by a representative of the teacher's choice.

(2) For any cause it may deem in good faith sufficient, the district board may refuse to renew the contract of any probationary teacher. However, the teacher shall be entitled to notice of the intended action by April 1, and upon request shall be provided a hearing before the district board. Upon request of the probationary teacher the board shall provide the probationary teacher a written copy of the reasons for the nonrenewal, which shall provide the basis for the hearing.

(3) If an appeal is taken from any hearing, the appeal shall be to the circuit court for the county in which the headquarters of the school district is located and shall be limited to the following:

(a) The procedures at the hearing;

(b) Whether the written copy of reasons for dismissal required by this section was supplied; and

(c) In the case of nonrenewal, whether notice of nonrenewal was timely given. [1965 c.608 §4; 1971 c.570 §4; 1975 c.727 §1; 1979 c.714 §2; 1981 c.323 §1]

342.840 Determination of length of service for probationary teacher. For purposes of determining length of service for a probationary teacher, a teacher employed for 135 consecutive days in any school year shall receive credit for a full year of employment. At least 30 consecutive days of employment in the same district in a successive year shall be sufficient to keep the service intact, and the teacher shall not lose credit for previous probationary years served. [1981 c.299 §3]

Note: 342.840 was enacted into law by the Legislative Assembly and was added to 342.805 to 342.937 but was not added to or made a part of any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

342.845 Contract teacher; part-time contract teacher; effect of program transfer; administrator contracts. (1) A contract teacher shall not be subjected to the requirement of annual appointment nor shall the teacher be dismissed or employed on a part-time basis without the consent of the teacher except as provided in ORS 342.805 to 342.937.

(2) Notwithstanding subsection (1) of this section, a part-time contract teacher attains contract status at not less than half-time but less than full-time and may be assigned within those limits by the school district. The assignment of a contract part-time teacher is not subject to the procedures specified in ORS 342.805 to 342.930. A contract part-time teacher who accepts a full-time assignment shall be considered a contract teacher for purposes of the assignment.

(3) No teacher shall be deprived of employment status solely because the duties of employment have been assumed or acquired by another school district or education service district in a state reorganization of a regional special education program. Where such reorganization occurs, a teacher shall be transferred to the employment of the school district or education service district which assumed or acquired program responsibilities. The teacher shall be allowed to transfer accrued sick leave and experience status to the new district. However, the district to which the programs are transferred is obligated to hire displaced employees only to the extent that such would complement a cost effective staffing plan in the reorganized program.

(4)(a) As used in this subsection:

(A) "Juvenile detention education program" means the Juvenile Detention Education Program, as defined in ORS 326.695.

(B) "School district" has the meaning given that term in ORS 329.007.

(b) No teacher shall be deprived of employment status solely because the duties of employment have been assumed or acquired by another school district or education service district pursuant to a transfer of juvenile detention education program responsibilities to another school district or education service district. Where such reorganization occurs, a teacher shall be transferred to the employment of the school district or education service district that assumed or acquired program responsibilities. The teacher shall be allowed to transfer accrued sick leave, seniority and status as a contract teacher. However, the district to which the program is transferred is obligated to hire displaced teachers only to the extent that such would complement a cost-effective staffing plan in the reorganized program.

(5)(a) An administrator shall serve a probationary period that does not exceed three years, unless the administrator and the school district mutually agree to a shorter time period. Following a probationary period, an administrator shall be employed by a school district pursuant to a three-year employment contract. An administrator may be dismissed or have a reduction in pay during the term of a contract for any reason set forth for dismissal of a teacher in ORS 342.865, or pursuant to ORS 342.934 (5). If an administrator is dismissed or has a reduction in pay during the term of the contract, the administrator may appeal to the Fair Dismissal Appeals Board in the same manner as provided for the appeal of a dismissal or a nonextension of a contract teacher. An administrator may not appeal the nonextension of a contract to the Fair Dismissal Appeals Board.

(b) The administrator may be assigned and reassigned at will during the term of the contract.

(c) The district school board may elect not to extend the administrator's contract for any cause the school board in good faith considers sufficient. Prior to March 15 of the second year of the administrator's contract, the school board shall take one of the following actions:

(A) Issue a new three-year contract effective July 1 following the March 15 of the second year of the administrator's contract;

(B) Provide, in writing, notice that the contract will not be renewed or extended; or

(C) Extend the existing contract for a period of not more than one year.

(6) If an administrator receives notice of contract nonextension prior to the expiration of the administrator's contract, the adminis-

trator shall have the right to fill any vacant teaching position in the district for which the contract administrator is licensed and competent as defined in ORS 342.934, provided the administrator has three years' teaching experience in Oregon that has been successful, in the judgment of the district superintendent. [1965 c.608 §§5,6; 1977 c.880 §2; 1983 c.554 §1; 1983 s.s. c.1 §2; 1993 c.480 §2; 1997 c.864 §8; 2001 c.681 §9]

342.850 Teacher evaluation; personnel file content. (1) The district superintendent of every school district, including superintendents of education service districts, shall cause to have made at least annually but with multiple observations an evaluation of performance for each probationary teacher employed by the district. The purpose of the evaluation is to aid the teacher in making continuing professional growth and to determine the teacher's performance of the teaching responsibilities. Evaluations shall be based upon at least two observations and other relevant information developed by the district.

(2)(a) The district school board shall develop an evaluation process in consultation with school administrators and with teachers. If the district's teachers are represented by a local bargaining organization, the board shall consult with teachers belonging to and appointed by the local bargaining organization in the consultation required by this paragraph.

(b) The district school board shall implement the evaluation process that includes:

(A) The establishment of job descriptions and performance standards which include but are not limited to items included in the job description;

(B) A preevaluation interview which includes but is not limited to the establishment of performance goals for the teacher, based on the job description and performance standards;

(C) An evaluation based on written criteria which include the performance goals;

(D) A post-evaluation interview in which:

(i) The results of the evaluation are discussed with the teacher; and

(ii) A written program of assistance for improvement is established, if one is needed to remedy any deficiency specified in ORS 342.865 (1)(a), (d), (g) or (h); and

(E) The utilization of peer assistance whenever practicable and reasonable to aid teachers to better meet the needs of students. Peer assistance shall be voluntary and subject to the terms of any applicable collective bargaining agreement. No witness or document related to the peer assistance or the record of peer assistance shall be admissible in any proceeding before the Fair Dismissal Appeals Board, or in a probationary teacher nonrenewal hearing before a school board under ORS 342.835, without the mutual consent of the district and the teacher provided with peer assistance.

(c) Nothing in this subsection is intended to prohibit a district from consulting with any other individuals.

(3) Except in those districts having an average daily membership, as defined in ORS 327.006, of fewer than 200 students, the person or persons making the evaluations must hold teaching licenses. The evaluation shall be signed by the school official who supervises the teacher and by the teacher. A copy of the evaluation shall be delivered to the teacher.

(4) The evaluation reports shall be maintained in the personnel files of the district.

(5) The evaluation report shall be placed in the teacher's personnel file only after reasonable notice to the teacher.

(6) A teacher may make a written statement relating to any evaluation, reprimand, charge, action or any matter placed in the teacher's personnel file and such teacher's statement shall be placed in the personnel file.

(7) All charges resulting in disciplinary action shall be considered a permanent part of a teacher's personnel file and shall not be removed for any reason. A teacher shall have the right to attach the teacher's response, or other relevant documents, to any document included under this subsection.

(8) The personnel file shall be open for inspection by the teacher, the teacher's designees and the district school board and its designees. District school boards shall adopt rules governing access to personnel files, including rules specifying whom school officials may designate to inspect personnel files.

(9) A program of assistance for improvement or evaluation procedure shall not be technically construed, and no alleged error or unfairness in a program of assistance for improvement shall cause the overturning of a dismissal, nonextension of contract, nonrenewal of contract or other disciplinary action unless the contract teacher suffered a substantial and prejudicial impairment in the teacher's ability to comply with school district standards. [1971 c.570 §5; 1973 c.298 §3; 1973 c.458 §1; 1977 c.881 §3; 1979 c.598 §1; 1979 c.668 §2a; 1987 c.663 §1; 1989 c.491 §29; 1997 c.864 §9]

342.855 [1965 c.608 §8; repealed by 1971 c.570 §15]

342.865 Grounds for dismissal or contract nonextension of contract teacher. (1) No contract teacher shall be dismissed or

the teacher's contract nonextended except for:

(a) Inefficiency;

(b) Immorality;

(c) Insubordination;

(d) Neglect of duty, including duties specified by written rule;

(e) Physical or mental incapacity;

(f) Conviction of a felony or of a crime according to the provisions of ORS 342.143;

(g) Inadequate performance;

(h) Failure to comply with such reasonable requirements as the board may prescribe to show normal improvement and evidence of professional training and growth; or

(i) Any cause which constitutes grounds for the revocation of such contract teacher's teaching license.

(2) In determining whether the professional performance of a contract teacher is adequate, consideration shall be given to regular and special evaluation reports prepared in accordance with the policy of the employing school district and to any written standards of performance which shall have been adopted by the board.

(3) Suspension or dismissal on the grounds contained in subsection (1)(e) of this section shall not disqualify the teacher involved for any of the disability benefits provided in ORS chapter 238, or any of the benefits provided in ORS 332.507.

(4) Dismissal under subsection (1)(f) of this section shall remove the individual from any school district policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of ORS 342.805 to 342.937. [1965 c.608 §§9,19; 1973 c.298 §4; 1977 c.860 §4; 1981 c.569 §1; 1995 c.446 §10; 1997 c.249 §104; 1997 c.864 §10; 1999 c.130 §8]

342.875 Suspension; reinstatement. Whenever a district superintendent has reason to believe that cause exists for the dismissal of a contract teacher on any ground specified in ORS 342.865 (1)(b) to (f), and when the district superintendent is of the opinion that immediate suspension of the teacher is necessary for the best interest of education in the district, the district superintendent may suspend a contract teacher from the position without prior notice to the teacher. The teacher's salary shall continue during the first five days of the suspension period. However, within five days after such suspension becomes effective, either procedure shall be commenced for the dismissal of the teacher pursuant to the provisions of ORS 342.805 to 342.937 or the teacher must be reinstated. [1965 c.608 §7; 1971 c.570 §6; 1977 c.881 §4; 1997 c.864 §11]

342.885 [1965 c.608 §10; repealed by 1973 c.298 §9]

342.895 Contract teachers; procedure for dismissal or contract nonextension; appeal. (1) Contract teachers shall be employed by a school district pursuant to two-year employment contracts.

(2) Authority to dismiss or not extend a contract teacher is vested in the district school board subject to the provisions of the fair dismissal and contract extension procedures of ORS 342.805 to 342.937 and only after recommendation of the dismissal or nonextension of contract is given to the district school board by the superintendent.

(3)(a) At least 20 days before recommending to a board the dismissal of the contract teacher, the district superintendent shall give written notice to the contract teacher by certified mail or delivered in person of the intention to make a recommendation to dismiss the teacher. The notice shall set forth the statutory grounds upon which the superintendent believes such dismissal is justified, and shall contain a plain and concise statement of the facts relied on to support the statutory grounds for dismissal. If the statutory grounds specified are those specified in ORS 342.865 (1)(a), (c), (d), (g) or (h), then evidence shall be limited to those allegations supported by statements in the personnel file of the teacher on the date of the notice to recommend dismissal, maintained as required in ORS 342.850. Notice shall also be sent to the district school board and to the Fair Dismissal Appeals Board. A copy of ORS 342.805 to 342.937 shall also be sent to the contract teacher.

(b) If, after the 20-day notice required by paragraph (a) of this subsection, the district school board takes action to approve the recommendation for dismissal from the superintendent, the dismissal takes effect on or after the date of the district school board's action, as specified by the board. Notice of the board's action shall be given to the contract teacher as soon as practicable by certified mail, return receipt requested or in the manner provided by law for the service of a summons in a civil action.

(4)(a) Upon recommendation of the district superintendent, the district school board may extend a contract teacher's employment for a new two-year term by providing written notice to the teacher no later than March 15 of the first year of the contract. Any new contract that extends the teacher's employment for a new term shall replace any prior contracts.

(b) If the district school board does not extend a contract teacher's contract by March 15 of the first year of the contract, the district superintendent, or the superintendent's designee, shall place the teacher on a program of assistance for improvement.

The district superintendent or the superintendent's designee may, in addition, place any other teacher on a program of assistance for improvement if in the judgment of the district superintendent or designee a program of assistance for improvement is needed.

(c) Provided that the district school board has not extended the teacher's contract for a new two-year term, the district board, upon recommendation of the superintendent, may elect by written notice to the teacher no later than March 15 of the second year of the teacher's contract not to extend the teacher's contract based on any ground specified in ORS 342.865. A contract teacher whose contract is not extended may appeal the nonextension to the Fair Dismissal Appeals Board.

(5) Notwithstanding ORS 243.650 to 243.782 or the provisions of any collective bargaining agreement entered into after August 15, 1997, no grievance or other claim of violation of applicable evaluation procedures, or fundamental unfairness in a program of assistance for improvement, shall be filed while a teacher is on a program of assistance. All statutes of limitation and grievance timelines shall be tolled while the subject claims are held in abeyance under this moratorium provision. Except as provided in this subsection, the moratorium and tolling period ends on the date the program of assistance for improvement is completed, not to exceed one year, after which any claims subject to this provision may be pursued as otherwise provided by law or contract. In the case of a contract teacher who does not receive contract extension by March 15 of the first year of the teacher's contract, the moratorium period shall last until the teacher receives notice of contract extension or nonextension and no later than March 15 of the following school year, or until the teacher receives notice of dismissal. A contract teacher who is dismissed or receives notice of contract nonextension, and who appeals to the Fair Dismissal Appeals Board, may raise any claims subject to this moratorium provision before the Fair Dismissal Appeals Board, which shall have jurisdiction to decide such claims. If the teacher does raise claims covered by this moratorium provision in an appeal to the Fair Dismissal Appeals Board, such appeal shall be the teacher's sole and exclusive remedy. If a contract teacher does not appeal a contract nonextension or dismissal to the Fair Dismissal Appeals Board but instead pursues contract grievances to arbitration alleging a violation of evaluation procedures or fundamental unfairness in a program of assistance for improvement, the arbitrator shall not have authority to award reinstatement of the contract teacher, but may award other remedies including but not limited to back pay, front pay, compensatory damages and such further relief as the arbitrator deems appropriate. A program of assistance for improvement shall not be technically construed, and no alleged error or unfairness in a program of assistance shall cause the overturning of a dismissal, nonextension of contract, nonrenewal of contract or other disciplinary actions unless the contract teacher suffered a substantial and prejudicial impairment in the teacher's ability to comply with school district standards.

(6) No teacher may be dismissed, laid off or caused to suffer nonextension or nonrenewal of a contract based upon the teacher's salary placement or other compensation. [1965 c.608 §11; 1971 c.570 §7; 1973 c.298 §5; 1977 c.881 §5; 1979 c.668 §3; 1997 c.864 §12]

342.905 Appeal procedure; arbitration as alternative. (1) If the district school board dismisses the teacher or does not extend the contract of the contract teacher, the teacher or the teacher's representative may appeal that decision to the Fair Dismissal Appeals Board established under ORS 342.930 by depositing by certified mail addressed to the Superintendent of Public Instruction and a copy to the superintendent of the school district:

(a) In the case of dismissal, within 10 days, as provided in ORS 174.120, after receipt of notice of the district school board's decision, notice of appeal with a brief statement giving the reasons for the appeal.

(b) In the case of a contract nonextension, within 15 days, as provided in ORS 174.120, after receipt of the written notice of nonextension of a contract, notice of appeal with a brief statement giving the reasons for the appeal.

(2)(a) As soon as practicable after the time the notice of appeal is received by the Superintendent of Public Instruction, the superintendent shall appoint a panel of three members from the Fair Dismissal Appeals Board for the purpose of conducting a hearing. Insofar as practicable, the panel shall be selected from those members of the board serving in positions where the average daily membership as determined in ORS 342.930 most nearly coincides with that of the involved district. The panel shall consist of:

(A) One member from the category representing district school board members;

(B) One member from the category not affiliated with common or union high school districts; and

(C) One member from the category representing teachers or administrators, as follows:

(i) If the appeal is from a contract teacher in a teaching position, the panel shall include the teacher member of the board.

(ii) If the contract teacher is in an administrative position, an administrative member shall sit in place of the teacher member.

(b) The panel may not contain a member who is a resident of the district that is bringing the dismissal or nonextension.

(c) The Department of Education, at the department's expense, shall provide to the panel appropriate professional and other special assistance reasonably required to conduct a hearing. The panel shall be empowered, on behalf of the contract teacher, the district superintendent and the district school board, to subpoena and swear witnesses and to require witnesses to give testimony and produce relevant evidence at or prior to the hearing.

(d) The executive secretary of the board may issue subpoenas on behalf of a panel. A person subpoenaed under this subsection may move to quash or modify the subpoena if it is oppressive or unreasonable. The motion must be made before the time specified in the subpoena for appearance or production of materials. The motion may be made to the executive secretary or the panel.

(e) In a case pending before a panel that involves a teacher's performance at an Oregon Youth Authority facility, the panel assigned to the case may submit to the Director of the Oregon Youth Authority written questions that the panel unanimously agrees are relevant to the case. The director shall respond to the panel's questions in writing within 20 days of the director's receipt of the questions from the panel. If a question by the panel seeks information that is not confidential or privileged under Oregon or federal law, the director shall provide the information requested by the panel. If a question by the panel seeks information that is confidential or privileged under Oregon or federal law, the director, in responding to the question, may not disclose the confidential or privileged information but shall instead explain that the information being sought is confidential or privileged. The procedure outlined in this paragraph is not in lieu of any other mechanism that may be available to the panel or parties for obtaining or presenting evidence.

(3) The Attorney General shall assign an assistant, at no cost to either involved party, to advise the Fair Dismissal Appeals Board, to be present at any hearing held by a panel, and to perform those tasks at the request of the board that would normally require legal training.

(4) Within 10 days after receipt of the notice of an appeal of contract nonextension, the district shall serve upon the Fair Dismissal Appeals Board and the teacher a written statement of reason for the contract nonextension, which shall include:

(a) A plain and concise statement of the facts relied on to support the statutory grounds for nonextension of the contract;

(b) The statutory grounds upon which the district believes such contract nonextension is justified; and

(c) A list of witnesses and documents upon which the district will rely at hearing.

(5)(a) At least 10 days prior to the hearing, the teacher shall provide a list of witnesses and exhibits to the Fair Dismissal Appeals Board panel and the school district.

(b) The Fair Dismissal Appeals Board panel shall hold a contested case hearing under ORS chapter 183 within 100 days of the receipt by the teacher of notice of dismissal or of the statement of reasons in the case of contract nonextension. No later than 140 days after the filing of an appeal, consistent with due process, the Fair Dismissal Appeals Board panel shall prepare and send a written decision to the contract teacher, the district superintendent, the district school board and the Superintendent of Public Instruction. The hearing shall be private unless the teacher requests a public hearing. At the hearing, the district and the contract teacher shall have the right to be present and be heard, to be represented by counsel, to present evidence and cross-examine adverse witnesses and to offer evidence that in the panel's judgment is relevant to the dispute. The panel may take all reasonable steps to require the parties to conclude the hearing in an expeditious manner.

(6) When the Fair Dismissal Appeals Board panel has completed its hearing, it shall prepare a written decision and send it to the contract teacher, the district superintendent, the district school board and the Superintendent of Public Instruction. The Fair Dismissal Appeals Board panel shall determine whether the facts relied upon to support the statutory grounds cited for dismissal or nonextension are true and substantiated. If the panel finds these facts true and substantiated, it shall then consider whether such facts, in light of all the circumstances and additional facts developed at the hearing that are relevant to the statutory standards in ORS 342.865 (1), are adequate to justify the statutory grounds cited. In making such determination, the panel shall consider all reasonable written rules, policies and standards of performance adopted by the school district board unless it finds that such

rules, policies and standards have been so inconsistently applied as to amount to arbitrariness. The panel shall not reverse the dismissal or nonextension if it finds the facts relied upon are true and substantiated unless it determines, in light of all the evidence and for reasons stated with specificity in its findings and order, that the dismissal or nonextension was unreasonable, arbitrary or clearly an excessive remedy.

(7)(a) Subject to subsection (6) of this section and paragraph (b) of this subsection, if the Fair Dismissal Appeals Board panel finds that the facts relied on to support the recommendation of the district superintendent are untrue or unsubstantiated, or if true and substantiated, are not adequate to justify the statutory grounds cited as reason for the dismissal or nonextension, and so notifies the contract teacher, the district superintendent, the district school board and the Superintendent of Public Instruction, the teacher shall be reinstated and the teacher shall receive such back pay as ordered by the Fair Dismissal Appeals Board panel for the period between the effective date of the dismissal or nonextension and the date of the order reinstating the teacher, or the date when the district actually reinstates the teacher, whichever is later. However, nothing in this section requires a school district to pay the teacher until the reinstatement occurs if the district has other legal grounds for not reinstating the teacher.

(b) So long as the right of the district board under subsection (9) of this section and under ORS 183.480 and 183.500 to judicial review of the action of the Fair Dismissal Appeals Board remains unexpired, the district school board may withhold the reinstated teacher from performance of teaching duties, unless otherwise ordered by the court having jurisdiction of the appeal.

(c) Subject to ORS 342.850 (9), if the Fair Dismissal Appeals Board panel determines that the procedures described in ORS 342.850 (2)(b)(A) to (D) have not been substantially complied with, the teacher may be reinstated with back pay as provided in paragraph (a) of this subsection.

(8) Subject to subsection (6) of this section, if the Fair Dismissal Appeals Board panel finds the facts relied on to support the recommendation of the district superintendent true and substantiated, and that those facts justify the statutory grounds cited as reason for the dismissal or nonextension and so notifies the contract teacher, the district superintendent, the district school board and the Superintendent of Public Instruction in writing, the dismissal or nonextension becomes final on the date of the notice.

(9) An appeal from action of the Fair Dismissal Appeals Board panel shall be taken in the manner provided in ORS 183.480.

(10)(a) If both the district board and the teacher or teacher's representative agree, arbitration may be used as an alternative to a hearing before a Fair Dismissal Appeals Board panel to determine if the teacher's dismissal or nonextension of a contract is in compliance with the standards of ORS 342.805 to 342.910. If the teacher or teacher's representative desires to use the arbitration procedure, the request for arbitration shall be included in the request for appeal that is filed with the Superintendent of Public Instruction under this section. Within 10 days of the time the superintendent of the district is notified of the teacher's intent to appeal the dismissal or nonextension of a contract, the superintendent of the district shall notify the teacher or teacher's representative and the Superintendent of Public Instruction as to whether the district has agreed to use the arbitration procedure. If the district determines not to use the arbitration procedure, the hearing procedure shall be continued under this section in the same manner as if no request for arbitration had been made. If the arbitration procedure is used, the teacher has no further rights to a hearing before a Fair Dismissal Appeals Board panel.

(b) The procedures for selection of the arbitrator are those in the applicable collective bargaining agreement. If there is no provision or agreement or if the agreement does not contain a procedure for selection, the parties shall request a list of five arbitrators from the Employment Relations Board and shall choose an arbitrator by alternative striking of names until one name is left. The remaining person shall act as the arbitrator. The Employment Relations Board shall compile a roster of qualified arbitrators from which the lists are to be taken.

(c) In determining whether the district board's dismissal or nonextension of the teacher should be sustained, the arbitrator shall use the same reasons, rules and levels of evidence as are required for the Fair Dismissal Appeals Board under ORS 342.805 to 342.910. [1965 c.608 §12; 1971 c.570 §8; 1973 c.298 §6; 1973 c.612 §14; 1977 c.223 §1; 1977 c.400 §5; 1977 c.881 §6; 1979 c.668 §4; 1987 c.663 §2; 1993 c.236 §1; 1993 c.237 §1; 1993 c.778 §28; 1997 c.864 §13; 2001 c.449 §1; 2003 c.798 §4]

Note: Section 5, chapter 798, Oregon Laws 2003, provides:

Sec. 5. The amendments to ORS 342.905 by section 4 of this 2003 Act apply to appeals filed with the Fair Dismissal Appeals Board on or after the effective date of this 2003 Act [September 24, 2003]. [2003 c.798 §5]

342.910 Waiver of contract grievance claim if appeal of dismissal decision filed; waiver of certain rights and procedures. (1) Any teacher who files an appeal of a dismissal or nonextension of a contract decision with the Fair Dismissal Appeals Board, upon motion of the school district, shall be required to waive any contract grievance claim regarding the same dismissal or nonextension of a contract as a condition to Fair Dismissal Appeals Board or subsequent judicial review.

(2) A school district and an exclusive bargaining representative of teachers may agree to waive all or any part of the rights and procedures provided under ORS 342.805 to 342.937 if third party review of any dismissal or nonextension of a contract teacher is available. [1995 c.286 §16; 1997 c.864 §14]

342.915 [1965 c.608 §13; 1971 c.570 §9; 1979 c.668 §5; repealed by 1997 c.864 §29]

342.925 [1965 c.608 §14; repealed by 1971 c.570 §15]

342.930 Fair Dismissal Appeals Board; rules. (1) A Fair Dismissal Appeals Board is created, consisting of 20 members appointed by the Governor, subject to confirmation by the Senate as provided in ORS 171.562 and 171.565. Five members shall be administrators in common or union high school districts, five members shall be contract teachers, five members shall be members of common or union high school district boards at the time of their appointment and five members shall not be affiliated with any common or union high school district. At least one member from each category shall be resident of a school district with an average daily membership as defined in ORS 327.006, of less than 1,500 students; one from each category shall be resident of a school district containing from 1,500 to 4,500 students; and one from each category shall be resident of a school district containing over 4,500 students.

(2) Except as provided in subsection (3) of this section, the term of office of each member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(3) A member whose term has expired may continue to serve for the following limited purposes:

(a) To conduct a hearing and prepare a written decision if the member was appointed to a panel in accordance with ORS 342.905 (2) before the expiration of the member's term; or

(b) To reconsider a decision if the member served on the panel originally hearing an appeal and a motion for reconsideration is filed prior to an appeal to the Court of Appeals.

(4) The continued service of a member as provided in subsection (3) of this section shall not prevent a successor from taking office at the time prescribed in subsection (2) of this section.

(5) Members shall be entitled to compensation and expenses as provided in ORS 292.495 for each day or part thereof during which they perform duties under ORS 342.805, 342.815, 342.835, 342.850, 342.875, 342.895 to 342.910 and this section, to be paid by the district school board from which the appeal is taken. However, any member of the board who would be entitled to receive a per diem except for being employed in full-time public service may receive the payment if service on the board is performed while the member is not under obligation to perform contractual teaching or administrative duties.

(6) The board shall select one of its members as chairperson and another as vice chairperson, for such terms and with duties and powers necessary for the performance of the functions of such offices as the board determines.

(7) A majority of the members of the board constitutes a quorum for the transaction of business.

(8) In accordance with applicable provisions of ORS chapter 183, the board may adopt rules necessary for the administration of this section and ORS 342.905 and 342.910. [1971 c.570 §10; 1973 c.298 §7; 1977 c.881 §7; 1983 c.777 §1; 1985 c.216 §1; 1997 c.864 §14a; 2001 c.449 §2]

342.934 Procedure for reduction of teacher staff due to funding or administrative decision. (1) The procedure for reduction in teacher staff positions resulting from the school district's lack of funds to continue its educational program at its anticipated level or resulting from the district's elimination or adjustment of classes due to administrative decision shall be as provided in this section. However, nothing in this section is intended to interfere with the right of a fair dismissal district to discharge, remove or fail to renew the contract of a probationary teacher pursuant to ORS 342.835.

(2) The school district shall make every reasonable effort to:

(a) Transfer teachers of courses scheduled for discontinuation to other teaching positions for which they are licensed and qualified.

(b) Combine teaching positions in a manner which allows teachers to remain quali-

fied so long as the combined positions meet the curriculum needs of the district and the competence consideration specified in subsection (4) of this section.

(3) In determining teachers to be retained when a school district reduces its staff under this section, the school district shall:

(a) Determine whether teachers to be retained hold proper licenses at the time of layoff to fill the remaining positions.

(b) Determine seniority of teachers to be retained, calculated from the first day of actual service as teachers with the school district inclusive of approved leaves of absence. Ties shall be broken by drawing lots.

(c) Determine competence and merit of teachers, if necessary, under subsection (4) of this section.

(4) If a school district desires to retain a teacher with less seniority than a teacher being released under this section, the district shall determine that the teacher being retained has more competence or merit than the teacher with more seniority who is being released.

(5) An administrator shall retain status and seniority as a contract teacher and voluntarily may return to teaching in a reduction in staff situation. However, an administrator who was never employed as a teacher in the district shall not be eligible to become a nonadministrative teacher in the district if the effect is to displace a nonadministrative contract teacher.

(6) In consultation with its employees or, for those employees in a recognized or certified collective bargaining unit, with the exclusive bargaining representative of that unit, each school district shall establish a procedure for recalling teachers to employment in the district who have been released because of a prospective or actual reduction in staff. The procedure so established shall define the criteria for recall and the teacher shall have the right of recall thereunder for 27 months after the last date of release by the district unless waived as provided in such procedure by rejection of a specific position. A contract teacher who is recalled shall retain the status obtained before the release. A probationary teacher who is recalled shall have years taught for the district counted as if the employment had been continuous for purposes of obtaining contract teacher status.

(7) An appeal from a decision on reduction in staff or recall under this section shall be by arbitration under the rules of the Employment Relations Board or by a procedure mutually agreed upon by the employee representatives and the employer. The results of the procedure shall be final and binding on the parties. Appeals from multiple reductions may be considered in a single arbitration. The arbitrator is authorized to reverse the staff reduction decision or the recall decision made by the district only if the district:

(a) Exceeded its jurisdiction;

(b) Failed to follow the procedure applicable to the matter before it;

(c) Made a finding or order not supported by substantial evidence in the whole record; or

(d) Improperly construed the applicable law.

(8) After August 15, 1997, a school district shall not agree in any collective bargaining agreement to waive the right to consider competence in making decisions about the order of reduction in staff or recall of staff. Nothing in this subsection shall prevent a school district and the exclusive bargaining representative from agreeing to alternative criteria for competence determinations under this subsection so long as the criteria ensure that all retained teachers are qualified for the positions they fill. As used in this subsection, "qualified" means the measurement of the teacher's ability to teach the particular grade level or subject matter in which the teacher is placed after the reduction in force. Qualifications shall be measured by more than seniority and licensure, but may include other criteria that reasonably measure the teacher's fitness to teach the relevant grade or subject level. Determinations of competence or qualifications under this subsection may take into account requirements for any special needs students.

(9) As used in this section:

(a) "Competence" means the ability to teach a subject or grade level based on recent teaching experience related to that subject or grade level within the last five years, or educational attainments, or both, but not based solely on being licensed to teach. The district may consider a teacher's willingness to undergo additional training or pursue additional education in deciding upon questions of competence.

(b) "Merit" means the measurement of one teacher's ability and effectiveness against the ability and effectiveness of another teacher. [1981 c.569 §3; 1983 s.s. c.1 §1; 1989 c.282 §1; 1993 c.480 §1; 1997 c.864 §15]

342.935 [1965 c.608 §15; repealed by 1971 c.570 §15; see 342.960]

342.937 Reimbursement for teacher dismissal costs. The Superintendent of Public Instruction may reimburse any school districts for all or part of the costs reasonably related to a dismissal of a contract

teacher or nonextension of a contract teacher's contract, or appeal therefrom under ORS 342.805 to 342.937, provided that the school district is the ultimate prevailing party. The superintendent may consider the school district's ability to pay the costs related to the dismissal or nonextension of the contract teacher, and seek such funds from the Emergency Board as may be in the superintendent's judgment necessary to carry out this provision. [1997 c.864 §6]

342.945 [1965 c.608 §16; repealed by 1971 c.570 §15]

342.955 [1965 c.608 §17; 1973 c.298 §8; 1979 c.861 §8; repealed by 1987 c.898 §28]

342.960 [1971 c.743 §359; see 342.935; repealed by 1973 c.298 §9]

MISCELLANEOUS

342.961 Internal investigations of employee misconduct or wrongdoing. Notwithstanding any other law, a district school board may conduct internal investigations of alleged employee misconduct or wrongdoing at any time. [1997 c.864 §17]

Note: 342.961 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 342 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

342.965 Interchange of teachers. A district school board may provide for the interchange of teachers with school districts of other states or countries. Teachers exchanged shall teach one year, the year's service outside the state being credited to them as service in the district in which they are regularly employed when the interchange is made. The salary of the Oregon teacher shall be paid by the Oregon school district and the salaries of the teachers from outside of Oregon shall be paid by the school districts in their respective states or countries. [Formerly 342.510]

342.970 [Formerly 342.520; repealed by 1993 c.45 §195]

342.975 [Formerly 342.560; 1973 c.270 §16; 1977 c.783 §2; repealed by 1993 c.45 §196]

342.980 [Formerly 342.575; 1967 c.67 §15; 1973 c.270 §17; repealed by 1993 c.45 §196]

342.982 [1977 c.635 §7; renumbered 342.495]

342.985 Qualifications to teach distance learning course. A person teaching a distance learning course originating in Oregon must:

(1) Have a teaching license issued by the Teacher Standards and Practices Commission with the appropriate subject matter endorsement; or

(2) Be employed by a post-secondary institution accredited by the Northwest Association of Schools and Colleges and have the appropriate subject matter preparation. [1991 c.710 §3]

342.990 [Repealed by 1965 c.100 §456]