

TITLE 30

EDUCATION AND CULTURE

- Chapter 326. State Administration of Education
327. State Financing of Elementary and Secondary Education
328. Local Financing of Education
329. Oregon Educational Act for the 21st Century; Educational Improvement and Reform
330. Boundary Changes; Mergers
332. Local Administration of Education
334. Regional Education
335. High Schools
336. Conduct of Schools Generally
337. Books and Instructional Materials
338. Public Charter Schools
339. School Attendance; Admission; Discipline; Safety
340. College Credit Earned in High School
341. Community Colleges
342. Teachers and Other School Personnel
343. Special Education and Other Specialized Education Services
344. Career and Technical Education; Rehabilitation; Adult Literacy
345. Career Schools
346. Programs for Persons Who Are Blind or Deaf
348. Student Aid; Education Stability Fund; Planning
351. Higher Education Generally
352. Public Universities and Independent Institutions of Higher Education
353. Oregon Health and Science University
354. Educational Television and Radio; Distance Learning; Translator Districts
357. Libraries; State Archivist; Poet Laureate
358. Oregon Historical and Heritage Agencies, Programs and Tax Provisions; Museums; Local Symphonies and Bands; Archaeological Objects and Sites
359. Art and Culture

Chapter 326

2011 EDITION

State Administration of Education

OREGON EDUCATION INVESTMENT BOARD	326.075	Cooperation with Education and Workforce Policy Advisor; cooperation and compliance with Oregon Student Access Commission decisions
(Temporary provisions relating to the Oregon Education Investment Board are compiled as notes preceding ORS 326.011)		
STATE BOARD OF EDUCATION		DEPARTMENT OF EDUCATION
		(Generally)
326.011 Policy	326.111	Department of Education; composition; functions
326.021 State Board of Education membership	326.113	Employee transfer of unused sick leave
326.031 Vacancies	326.115	Department of Education Account
326.041 Meetings; election and term of chairperson; compensation and expenses		(District Business Practices)
326.051 Board functions; rules	326.131	Definitions for ORS 326.133 and 326.136

EDUCATION AND CULTURE

<p>326.133 Auditing; list of best practices</p> <p>326.136 District Best Business Practices Advisory Committee</p>	<p>326.543 Adverse possession</p>
<p>REAL PROPERTY</p>	
<p>SUPERINTENDENT OF PUBLIC INSTRUCTION</p>	
<p>326.300 Governor as Superintendent of Public Instruction; appointment of deputy</p> <p>326.310 Superintendent's educational duties</p> <p>326.320 Fees for supplies and publications provided by department</p> <p>326.323 Superintendent's signature on public contracts</p> <p>326.327 Agreement by superintendent to ensure availability of instruction of Chinese language</p> <p>326.340 Disposition of conference fees by superintendent; disbursement of fees</p> <p>326.350 Authority for department staff to serve on education-related organizations; Educational Organizations Fund; disbursements</p>	<p>326.550 General Educational Development (GED) certificates; rules; how fee determined; accounting</p>
<p>GENERAL EDUCATIONAL DEVELOPMENT (GED) CERTIFICATES</p>	
<p>STUDENT RECORDS</p>	
<p>326.355 Determination of school census</p>	<p>326.565 Standards for student records; rules</p> <p>326.575 Records when student transfers or is placed elsewhere; notice to parents; amendments to records; rules</p> <p>326.580 Electronic student records; rules; standards; participation by educational institutions</p> <p>326.585 Definitions for ORS 326.587 and 326.589</p> <p>326.587 Disclosure of Social Security number of student attending public university</p> <p>326.589 Disclosure of Social Security number of community college student</p> <p>326.591 Action for disclosure of Social Security number</p>
<p>SCHOOL CENSUS</p>	
<p>DEPARTMENT OF COMMUNITY COLLEGES AND WORKFORCE DEVELOPMENT</p>	
<p>326.370 Department of Community Colleges and Workforce Development under State Board of Education; rules</p> <p>326.373 Department of Community Colleges and Workforce Development Account</p> <p>326.375 Commissioner for Community College Services; appointment; duties</p> <p>326.380 Advanced Technology Education and Training Fund</p> <p>326.382 Advanced technology education and training grants and loans; rules</p>	<p>326.603 Authority of school districts and schools to obtain fingerprints and criminal records check of employees and contractors; fee</p> <p>326.604 Authority of Department of Education to obtain fingerprints and criminal records check of employees</p> <p>326.606 Department rulemaking related to criminal records checks</p> <p>326.607 Authority of school districts and schools to obtain criminal records check of volunteers and applicants for employment; fee</p>
<p>CRIMINAL OFFENDER INFORMATION PROCESS</p>	
<p>INTELLECTUAL PROPERTY</p>	
<p>326.520 Acquisition of intellectual property by board</p> <p>326.530 Management, development and disposition of intellectual property</p> <p>326.540 Revenue from intellectual property; Board of Education Invention Fund; purpose</p>	<p>326.695 Definitions for ORS 326.700 and 326.712</p> <p>326.700 Purpose of programs; distribution of State School Fund</p> <p>326.712 Superintendent may contract with district to provide programs</p>
<p>YOUTH CORRECTIONS AND JUVENILE DETENTION EDUCATION PROGRAMS</p>	

STATE ADMINISTRATION OF EDUCATION

326.003 [1991 c.780 §1; repealed by 1993 c.45 §1a]

326.005 [1961 c.624 §1; repealed by 1965 c.100 §456]

326.010 [Repealed by 1961 c.624 §8 and 1965 c.519 §15]

Note: Sections 1 to 7, 10 and 11, chapter 519, Oregon Laws 2011, provide:

Sec. 1. Oregon Education Investment Board; composition; duties. (1) The Oregon Education Investment Board is established for the purpose of ensuring that all public school students in this state reach the education outcomes established for the state. The board shall accomplish this goal by overseeing a unified public education system that begins with early childhood services and continues throughout public education from kindergarten to post-secondary education.

(2)(a) The board consists of 13 members as follows:

(A) The Governor, or the designee of the Governor; and

(B) Twelve members who are appointed by the Governor, subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565, and who serve at the pleasure of the Governor.

(b) When determining who to appoint to the board, the Governor shall:

(A) Ensure that each congressional district of this state is represented by at least one member of the board; and

(B) Solicit recommendations from the Speaker of the House of Representatives for at least two members and from the President of the Senate for at least two members.

(3) The Governor, or the Governor's designee, shall serve as chairperson of the Oregon Education Investment Board.

(4) The duties of the board include:

(a) Ensuring that early childhood services are streamlined and connected to public education from kindergarten through grade 12 and that public education from kindergarten through grade 12 is streamlined and connected to post-secondary education. To assist the board in fulfilling this duty, the board shall oversee:

(A) The Early Learning Council established by section 4 of this 2011 Act.

(B) The Higher Education Coordinating Commission established by section 1, chapter 637, Oregon Laws 2011 [351.715].

(b) Recommending strategic investments in order to ensure that the public education budget is integrated and is targeted to achieve the education outcomes established for the state.

(c) Providing an integrated, statewide, student-based data system that monitors expenditures and outcomes to determine the return on statewide education investments. The board shall provide the data system described in this paragraph by:

(A) Developing the data system or identifying or modifying an existing data system that accomplishes the goals of the data system; and

(B) Ensuring that the data system is maintained.

(5) An appointed member of the board is entitled to compensation and expenses as provided in ORS 292.495.

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

(7) The board shall meet at such times and places specified by the call of the chairperson or of a majority of the members of the board.

(8) In accordance with applicable provisions of ORS chapter 183, the board may adopt rules necessary for the administration of the laws that the board is charged

with administering, including any rules necessary for the oversight of the direction and control of the Higher Education Coordinating Commission. [2011 c.519 §1; 2011 c.519 §8]

Sec. 2. Chief Education Officer. (1) The Oregon Education Investment Board established by section 1 of this 2011 Act shall appoint a Chief Education Officer who shall serve at the pleasure of the board.

(2) The Chief Education Officer shall be a person who, by training and experience, is well qualified to:

(a) Perform the duties of the office, as determined by the board; and

(b) Assist in carrying out the functions of the board, as described in section 1 of this 2011 Act. [2011 c.519 §2]

Sec. 3. Oregon Education Investment Fund. (1) The Oregon Education Investment Fund is established in the State Treasury, separate and distinct from the General Fund. Moneys in the Oregon Education Investment Fund may be invested and reinvested. Interest earned by the Oregon Education Investment Fund shall be credited to the fund.

(2) Moneys in the Oregon Education Investment Fund are continuously appropriated to the Oregon Education Investment Board established by section 1 of this 2011 Act for the purpose of funding the duties of the board related to early childhood services and public education from kindergarten through post-secondary education. [2011 c.519 §3]

Sec. 4. Early Learning Council; composition. (1) The Early Learning Council is established. The council shall function under the direction and control of the Oregon Education Investment Board established by section 1 of this 2011 Act.

(2) The council is established for the purpose of assisting the board in overseeing a unified system of early childhood services, including the funding and administration of those services.

(3)(a) The council consists of nine members who are appointed by the Governor and serve at the pleasure of the Governor.

(b) When determining who to appoint to the council, the Governor shall:

(A) Ensure that at least one of the members is an appointed member of the Oregon Education Investment Board;

(B) Ensure that each congressional district of this state is represented by at least one member of the council;

(C) For a member who is not an appointed member of the Oregon Education Investment Board, ensure that the member meets the following qualifications:

(i) Demonstrates leadership skills in civics or the member's profession;

(ii) To the greatest extent practicable, contributes to the council's representation of the geographic, ethnic, gender, racial and economic diversity of this state; and

(iii) Contributes to the council's expertise, knowledge and experience in early childhood development, early childhood care, early childhood education, family financial stability, populations disproportionately burdened by poor education outcomes and outcome-based best practices; and

(D) Solicit recommendations from the Speaker of the House of Representatives for at least two members and from the President of the Senate for at least two members.

(4) The activities of the council shall be directed and supervised by the Early Childhood System Director, who is appointed by the Governor and serves at the pleasure of the Governor. [2011 c.519 §4]

Sec. 5. Information provided by Early Learning Council for report prepared by Oregon Education Investment Board. (1) The Early Learning Council established by section 4 of this 2011 Act shall prepare and submit to the Oregon Education Investment Board the information described in this section for inclusion in the report required under section 6 of this 2011 Act.

(2) The council shall conduct an analysis of plans to merge, redesign or improve the coordination of early childhood services and to align early childhood services with child-centered outcomes. The early childhood services to be considered in the analysis include:

(a) Certain programs or services funded or administered by the State Commission on Children and Families, including:

(A) Healthy Start Family Support Services programs described in ORS 417.795.

(B) Relief nurseries described in ORS 417.788.

(C) Community schools described in ORS 336.505 to 336.525.

(D) Great Start.

(E) Family preservation programs.

(F) Any other services identified by the board that are funded by grants or other moneys awarded to the commission for the purpose of serving children, youth and families.

(b) Certain programs or services funded or administered by the Department of Education, including:

(A) Early intervention services.

(B) Early childhood special education.

(C) Head Start programs.

(D) Oregon prekindergarten programs, as defined in ORS 329.170.

(E) The federal Even Start Statewide Family Literacy Initiative.

(F) Special education and related services, to the extent that the special education and related services affect early learning goals.

(c) Certain programs funded or administered by the State Library, including Ready to Read.

(d) Certain programs or services funded or administered by the Oregon Health Authority, including:

(A) Maternal and child health services.

(B) The Women, Infants and Children Program established by ORS 409.600 [renumbered 413.500].

(e) Certain programs funded or administered by the Employment Department, including:

(A) The Child Care Division established under ORS 657A.010.

(B) The Commission for Child Care created by ORS 657A.600.

(f) Certain programs funded or administered by the Department of Human Services, including:

(A) The Employment Related Day Care program.

(B) The Wraparound initiative described in ORS 418.977.

(3) The council shall establish a plan to implement early childhood services that could be implemented by June 30, 2012, to accomplish the following goals:

(a) Ensure the early identification of children and families who are at risk based upon identified, critical indicators.

(b) Establish and maintain family support managers who:

(A) Coordinate support services provided to children and families;

(B) Act as an intermediary between providers of support services and children and families receiving support services; and

(C) Serve a geographic area that represents the service area of one or more elementary schools.

(c) Ensure that contracts with early childhood services providers require measured progress, establish goals and provide payment based on the success of the provider in achieving the goals.

(d) Establish kindergarten readiness assessments and early learning benchmarks.

(e) Collect and evaluate data related to early childhood services to ensure that stated goals are being achieved.

(4) The council shall submit the information described in this section to the board by a date identified by the board. The board shall determine what information to present in the report described in section 6 of this 2011 Act and how the information shall be presented. [2011 c.519 §5]

Sec. 6. Report prepared by Oregon Education Investment Board. (1) The Oregon Education Investment Board established by section 1 of this 2011 Act shall submit a report to the interim legislative committees on education on or before December 15, 2011, and may file proposed legislative measures with the Legislative Counsel in the manner allowed by both houses of the Legislative Assembly.

(2) The report required by this section shall describe the proposed legislative measures, which may provide for any of the following:

(a) Allowing the Oregon Education Investment Board to carry out the duties of the board described in section 1 of this 2011 Act.

(b) Merging, redesigning or improving the coordination of early childhood services and aligning early childhood services with child-centered outcomes, as described in section 5 (2) of this 2011 Act.

(c) Implementing early childhood services that meet the goals described in section 5 (3) of this 2011 Act.

(d) Merging the State Board of Education and the State Board of Higher Education and transferring the duties of those boards and the State Commission on Children and Families to the Oregon Education Investment Board by June 30, 2012.

(e) Requiring the Commissioner for Community College Services, the Chancellor of the Oregon University System and the executive director of the Oregon Student Access Commission to function under the direction and control of the Chief Education Officer of the Oregon Education Investment Board by June 30, 2012.

(f) Consolidating, aligning and coordinating governance, programs and funding for youth development and training, including the Oregon Youth Investment Foundation, juvenile crime prevention programs and services, the Oregon Youth Conservation Corps and the Youth Standing Committee of the Oregon Workforce Investment Board. [2011 c.519 §6]

Sec. 7. Operative date of statewide data system. The Oregon Education Investment Board established by section 1 of this 2011 Act shall ensure that the statewide data system described in section 1 (4)(c) of this 2011 Act is operating on or before June 30, 2012. [2011 c.519 §7]

Sec. 10. Repeal. Sections 1 to 7 of this 2011 Act are repealed on March 15, 2016. [2011 c.519 §10]

Sec. 11. Transfer of records and property from Oregon Education Investment Board. (1) On March 15, 2016, the Chief Education Officer of the Oregon Education Investment Board shall deliver to the Chancellor of the Oregon University System all records and property within the jurisdiction of the Chief Education Officer that relate to the duties, functions and

powers of the Oregon Education Investment Board. The Chancellor of the Oregon University System shall take possession of the records and property.

(2) On March 15, 2016, the Early Childhood System Director shall deliver to the Superintendent of Public Instruction all records and property within the jurisdiction of the Early Childhood System Director that relate to the duties, functions and powers of the Early Learning Council. The Superintendent of Public Instruction shall take possession of the records and property.

(3) The Governor shall resolve any dispute between the Chief Education Officer and the Chancellor of the Oregon University System, or the Early Childhood System Director and the Superintendent of Public Instruction, relating to transfers of records and property under this section, and the Governor's decision is final. [2011 c.519 §11]

STATE BOARD OF EDUCATION

326.011 Policy. In establishing policy for the administration and operation of the public elementary and secondary schools and public community colleges in the State of Oregon and in carrying out its duties as prescribed by law, the State Board of Education shall consider the goals of modern education, the requirements of a sound, comprehensive curriculum best suited to the needs of the students and the public and any other factors consistent with the maintenance of a modern and efficient elementary and secondary school system and community college program. [1965 c.100 §1; 1971 c.513 §8]

326.020 [Amended by 1961 c.624 §2; 1963 c.544 §15; repealed by 1965 c.100 §456]

326.021 State Board of Education membership. (1) The State Board of Education shall consist of:

(a) The State Treasurer, or the designee of the State Treasurer;

(b) The Secretary of State, or the designee of the Secretary of State; and

(c) Seven members, appointed by the Governor for a term of four years beginning July 1 of the year of appointment, subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. A person appointed under this paragraph may not be appointed to serve consecutively more than two full terms as a board member.

(2) In making appointments under subsection (1) of this section, the Governor shall select from residents of Oregon one member from each congressional district and two members from the state at large. An appointed member may not be engaged in teaching or participate in the administration or operation of any school.

(3) The Governor may remove appointed members of the State Board of Education for cause at any time after notice and public hearing.

(4) The State Treasurer and the Secretary of State, or the designee of the State Treasurer or Secretary of State, are nonvoting, ex officio members of the board. [1965 c.100 §3 (enacted in lieu of 326.060); 1969 c.695 §4; 1971 c.485 §1; 1985 c.565 §56; 1993 c.45 §2; 2009 c.446 §1]

326.030 [Amended by 1961 c.624 §3; renumbered 326.095]

326.031 Vacancies. Appointments made to fill vacancies of the State Board of Education occurring prior to expiration of a term of an appointed member shall be for the remainder of the unexpired term. When a vacancy occurs in an appointment made from a congressional district, the successor shall be appointed from the congressional district for which the vacancy exists. [1965 c.100 §4; 1985 c.565 §57; 2009 c.446 §2]

326.040 [Amended by 1957 c.124 §1; repealed by 1965 c.100 §456]

326.041 Meetings; election and term of chairperson; compensation and expenses.

(1) The State Board of Education shall meet at least six times each year on dates determined by the board, and at such other times as may be designated by the chairperson agreeable to a majority of the board, or at the call of a majority of the board members.

(2) The board shall elect one of its members to serve as chairperson of the board for one year commencing July 1. In case the office of chairperson of the board is permanently vacated for any reason, the board may elect a new chairperson to serve until the June 30 next following.

(3) A member is entitled to compensation and expenses as provided in ORS 292.495. [1965 c.100 §5; 1967 c.507 §3; 1969 c.314 §21; 1971 c.656 §1; 1987 c.474 §1; 1993 c.15 §1; 1993 c.45 §3]

326.050 [Repealed by 1957 c.124 §3]

326.051 Board functions; rules. Subject to ORS 417.300 and 417.305:

(1) In addition to such other duties as are prescribed by law and pursuant to the requirement of ORS chapter 183, the State Board of Education shall:

(a) Establish state standards for public kindergartens and public elementary and secondary schools consistent with the policies stated in ORS 326.011.

(b) Adopt rules for the general governance of public kindergartens and public elementary and secondary schools and public community colleges.

(c) Prescribe required or minimum courses of study.

(d) Adopt rules regarding school and interscholastic activities.

(e) Adopt rules that provide that no public elementary or secondary school shall discriminate in determining participation in interscholastic activities. As used in this

paragraph, “discrimination” has the meaning given that term in ORS 659.850.

(f) Adopt rules that will eliminate the use and purchase of elemental mercury, mercury compounds and mercury-added instructional materials by public elementary and secondary schools.

(2) The State Board of Education may:

(a) Consistent with the laws of this state, accept money or property not otherwise provided for under paragraph (b) of this subsection, which is donated for the use or benefit of the public kindergartens and public elementary and secondary schools and public community colleges and use such money or property for the purpose for which it was donated. Until it is used, the board shall deposit any money received under this paragraph in a special fund with the State Treasurer as provided in ORS 293.265 to 293.275.

(b) Apply for federal funds and accept and enter into any contracts or agreements on behalf of the state for the receipt of such funds from the federal government or its agencies for:

(A) Educational purposes, including but not limited to any funds available for the school lunch program;

(B) Career and technical education programs;

(C) Adult education programs;

(D) Workforce training programs; and

(E) Any grants available to the state or its political subdivisions for general federal aid for public kindergartens, public elementary schools, public secondary schools and public community colleges and their auxiliary services, improvement of teacher preparation, teacher salaries, construction of school buildings, administration of the Department of Education and any other educational activities under the jurisdiction of the State Board of Education.

(c) Adopt rules to administer the United States Department of Agriculture’s National School Lunch Program and School Breakfast Program for public and private prekindergarten through grade 12 schools and residential child care facilities.

(3) The State Board of Education shall provide a separate, identifiable place on its agenda six times a year for community college issues. The state board may also consider matters affecting community colleges at any regular or special meeting. [1965 c.100 §6; 1965 c.519 §14; 1967 c.67 §24; 1969 c.284 §1; 1971 c.513 §9; 1973 c.707 §1; 1975 c.459 §1; 1975 c.605 §17a; 1981 c.91 §1; 1987 c.404 §2; 1987 c.474 §2; 1989 c.834 §§12,13; 1993 c.45 §§5,6; 2001 c.530 §1; 2003 c.14 §146; 2003 c.151 §1; 2009 c.94 §1; 2011 c.313 §17]

326.054 [1953 c.78 §1(1); repealed by 1965 c.100 §456]

326.056 [1953 c.78 §1(2); repealed by 1965 c.100 §456]

326.058 [1987 c.404 §1; 1993 c.45 §9; renumbered 339.430 in 1993]

326.060 [Repealed by 1965 c.100 §2 (326.021 enacted in lieu of 326.060)]

326.061 [1965 c.100 §8; repealed by 1993 c.45 §10]

326.063 [Repealed by 1965 c.100 §456]

326.065 [Amended by 1961 c.167 §40; repealed by 1965 c.100 §456]

326.070 [Amended by 1959 c.422 §1; repealed by 1965 c.100 §456]

326.071 [Formerly 326.120; repealed by 1977 c.306 §1]

326.075 Cooperation with Education and Workforce Policy Advisor; cooperation and compliance with Oregon Student Access Commission decisions. (1) The State Board of Education shall cooperate with the Education and Workforce Policy Advisor in the development of a state comprehensive education plan including elementary, secondary and community college education and in review of the board’s programs and budget. The board shall submit in timely fashion to the advisor such data as is appropriate in a form prescribed by the advisor.

(2) The board shall cooperate with the mediation process administered by the Oregon Student Access Commission pursuant to ORS 348.603 and, if a negotiated resolution cannot be reached by mediation, comply with the decisions of the commission regarding proposed new post-secondary programs and proposed new post-secondary locations. [1975 c.553 §8; 1993 c.45 §11; 1997 c.652 §20; 2011 c.637 §103]

326.080 [Repealed by 1965 c.100 §456]

326.081 [1971 c.656 §2; repealed by 1985 c.388 §3]

326.090 [Amended by 1959 c.422 §2; 1963 c.483 §8; repealed by 1965 c.100 §456]

326.095 [Formerly 326.030; repealed by 1965 c.100 §456]

326.100 [Repealed by 1961 c.624 §8 and 1965 c.519 §15]

326.102 [1953 c.266 §1; renumbered 326.520]

326.104 [1953 c.266 §2; renumbered 326.530]

326.106 [1953 c.266 §3; renumbered 326.540]

326.110 [Repealed by 1965 c.100 §456]

DEPARTMENT OF EDUCATION

(Generally)

326.111 Department of Education; composition; functions. (1) The Department of Education is created and shall function under the direction and control of the State Board of Education with the Superintendent of Public Instruction serving as an administrative officer for public school matters.

(2) The Department of Education shall consist of:

(a) Agencies and officers that are added by law to the Department of Education; and

(b) The administrative organizations and staffs required for the performance of the department's functions.

(3) All administrative functions of the State Board of Education shall be exercised through the Department of Education, and the department shall exercise all administrative functions of the state relating to supervision, management and control of schools not conferred by law on some other agency. [1965 c.100 §10; 1967 c.552 §22; 1989 c.491 §2; 1991 c.757 §1; 1991 c.886 §2; 1993 c.45 §12; 1999 c.39 §3; 2005 c.209 §3]

326.113 Employee transfer of unused sick leave. (1) When an employee of the Department of Education leaves the department to become an employee of a school district or an education service district, the employee may transfer any accrued but unused sick leave to the district and may use the transferred sick leave in accordance with the sick leave policy of the district.

(2) When an employee of a school district or an education service district leaves the district to become an employee of the Department of Education, the employee may transfer any accrued but unused sick leave to the department and may use the transferred sick leave in accordance with the sick leave policy of the department. [2007 c.119 §1]

326.115 Department of Education Account. The Department of Education Account is established separate and distinct from the General Fund. All moneys received by the Department of Education, other than appropriations from the General Fund, shall be deposited into the account and are continuously appropriated to the department to carry out the duties, functions and powers of the department. [2001 c.716 §12]

326.120 [Amended by 1965 c.100 §9; renumbered 326.071]

326.130 [Repealed by 1965 c.100 §456]

(District Business Practices)

326.131 Definitions for ORS 326.133 and 326.136. As used in ORS 326.133 and 326.136:

(1) "Business practices" means:

(a) The process of providing transportation, food service, grounds maintenance, building and systems maintenance, new construction, purchasing and contracting; or

(b) Financial practices.

(2) "District" means a school district as defined in ORS 332.002 and an education service district as defined in ORS 334.003. [2007 c.839 §11]

326.133 Auditing; list of best practices.

(1) The Department of Education, in consultation with the District Best Business Prac-

tices Advisory Committee, shall establish a system for auditing the business practices of districts. The department shall develop a list of best business practices to use for the district audits.

(2) Only those districts that volunteer for the audit will be audited under this section.

(3) The department shall contract with the Secretary of State to audit districts based on the list of best business practices.

(4) The secretary shall report the results of the audit first to the Governor, the State Board of Education and the district that was the subject of the audit. Then the secretary may post the results of the audit on the Internet.

(5) The department shall monitor district responses to the recommendations made in the audit. The department shall report to the board on the district responses and make further recommendations if necessary. [2007 c.839 §12]

326.136 District Best Business Practices Advisory Committee. (1) There is established the District Best Business Practices Advisory Committee. The advisory committee shall consist of:

(a) One member appointed by the President of the Senate from among the members of the Senate;

(b) One member appointed by the Speaker of the House of Representatives from among the members of the House of Representatives; and

(c) The following members appointed by the Superintendent of Public Instruction:

(A) One member who is a representative of district school boards;

(B) One member who is a representative of district administrators;

(C) One member who is a representative of district teachers;

(D) One member who is employed by a district as a business manager;

(E) One member who is a member of a board of directors of an education service district; and

(F) One member who is a representative of district classified employees.

(2) In addition to the members appointed under subsection (1) of this section, the superintendent may appoint additional members who have special expertise in district business practices.

(3) The advisory committee shall advise the Department of Education on the development of a system for auditing the business practices of districts under ORS 326.133, including:

(a) The designation of best business practices of districts;

(b) The method of selecting districts that volunteer for an audit;

(c) The interpretation and understanding of audit results; and

(d) Monitoring and reporting the district responses to the results of the audits.

(4) A majority of the members of the advisory committee constitutes a quorum for the transaction of business.

(5) The advisory committee shall meet at times and places specified by the call of the chairperson or of a majority of the members of the advisory committee.

(6) Official action by the advisory committee requires the approval of a majority of the members of the advisory committee.

(7) The advisory committee shall elect one of its members to serve as chairperson.

(8) The term of office of each member is two years, but a member serves at the pleasure of the appointing authority. If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(9) The department shall provide staff support to the advisory committee.

(10) Members of the advisory committee who are not members of the Legislative Assembly are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions of the advisory committee shall be paid out of funds appropriated to the department for that purpose.

(11) All agencies of state government, as defined in ORS 174.111, and all districts are directed to assist the advisory committee in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the advisory committee consider necessary to perform their duties. [2007 c.839 §13]

326.140 [Amended by 1959 c.121 §1; 1961 c.624 §4; repealed by 1965 c.100 §456]

326.150 [Repealed by 1961 c.624 §8 and 1965 c.519 §15]

SUPERINTENDENT OF PUBLIC INSTRUCTION

326.300 Governor as Superintendent of Public Instruction; appointment of deputy. (1) As provided by section 1, Article VIII of the Oregon Constitution, the Governor is the Superintendent of Public Instruction.

(2)(a) The Governor, acting as Superintendent of Public Instruction, shall appoint a Deputy Superintendent of Public Instruction. The deputy superintendent must have at least five years of experience in the administration of an elementary school or a secondary school. The appointment of the deputy superintendent shall be subject to confirmation by the Senate as provided by ORS 171.562 and 171.565.

(b) The deputy superintendent shall perform any act or duty of the office of Superintendent of Public Instruction that is designated by the Governor, and the Governor is responsible for any acts of the deputy superintendent.

(3) The deputy superintendent may be removed from office by the Governor following consultation with the State Board of Education.

(4) The deputy superintendent shall receive a salary set by the Governor, and shall be reimbursed for all expenses actually and necessarily incurred by the deputy superintendent in the performance of official duties. [2011 c.731 §2 (enacted in lieu of 326.330)]

Note: The enactment of 326.300 in lieu of 326.330 by section 1, chapter 731, Oregon Laws 2011, does not apply to the Superintendent of Public Instruction who was holding office on August 5, 2011, or to any Deputy Superintendent of Public Instruction appointed by the Superintendent of Public Instruction who was holding office on August 5, 2011. See section 26, chapter 731, Oregon Laws 2011.

Note: Sections 3 and 26, chapter 731, Oregon Laws 2011, provide:

Sec. 3. (1) Notwithstanding section 2 of this 2011 Act [326.300], the Governor shall become the Superintendent of Public Instruction when one of the following first occurs:

(a) The expiration of the term of the Superintendent of Public Instruction holding office on the effective date of this 2011 Act [August 5, 2011]; or

(b) The vacancy for any cause in the office of Superintendent of Public Instruction that occurs on or after the effective date of this 2011 Act.

(2) The Superintendent of Public Instruction holding office on the effective date of this 2011 Act shall continue to serve as superintendent until the date on which the Governor becomes Superintendent of Public Instruction as provided by subsection (1) of this section. A superintendent so continuing to serve shall have the authority, powers, functions and duties of, and be subject to other provisions of law applicable to, the superintendent.

(3) The Governor may appoint a Deputy Superintendent of Public Instruction pursuant to section 2 of this 2011 Act to take office on or after the date on which the Governor becomes Superintendent of Public Instruction as provided in subsection (1) of this section. [2011 c.731 §3]

Sec. 26. Section 2 of this 2011 Act [326.300] and the amendments to ORS 171.130, 171.133, 171.735, 173.130, 240.205, 244.050, 249.002, 249.056, 249.215, 254.005, 258.036, 258.055, 260.005, 260.076, 292.311, 292.430, 292.930, 329.837, 343.465 and 458.558 and section 1, chapter 856, Oregon Laws 2009 [430.241], by sections 4 to 24 of this 2011 Act and the repeal of ORS 326.305 and 326.330 by sections 1 and 25 of this 2011 Act do not apply to:

(1) A Superintendent of Public Instruction who is holding office on the effective date of this 2011 Act [August 5, 2011]; or

(2) A Deputy Superintendent of Public Instruction who is appointed under the authority of a Superintendent of Public Instruction who is holding office on the effective date of this 2011 Act. [2011 c.731 §26]

326.305 [1979 c.190 §397; repealed by 2011 c.731 §25]

Note: The repeal of 326.305 by section 25, chapter 731, Oregon Laws 2011, does not apply to the Superintendent of Public Instruction who was holding office on August 5, 2011. See section 26, chapter 731, Oregon Laws 2011. The text that applies to the Superintendent of Public Instruction who was holding office on August 5, 2011, is set forth for the user's convenience.

326.305. Term of Superintendent of Public Instruction. The Superintendent of Public Instruction shall be elected for a term of four years.

326.310 Superintendent's educational duties. Except as provided by ORS 326.041, 326.051, 326.375, 341.005, 341.015, 341.440, 341.455, 341.626, 341.655 and 341.933, the Superintendent of Public Instruction shall exercise, under the direction of the State Board of Education, a general superintendence of school officers and the public schools. In carrying out the duties of office, the Superintendent of Public Instruction shall:

(1) Act as administrative officer of the State Board of Education.

(2) Act as executive head of the Department of Education and direct and supervise all activities of the department.

(3) Assist all district school boards and education service district boards in answering questions concerning the proper administration of the school laws, the rules of the State Board of Education and the ministerial duties of school officers and teachers. The decision of the superintendent shall guide school officers and teachers in the performance of their duties relating to the matters decided. The superintendent may submit any question to the State Board of Education which shall then decide the question.

(4) Obtain and compile such statistical information relative to the condition and operation of the public schools as the superintendent or the state board may consider advisable for the advancement of education and for the information of the state board and the public.

(5) Appoint, subject to the State Personnel Relations Law and with the approval of the State Board of Education, such personnel as may be necessary for the performance of the duties of the office of the superintendent. The Superintendent of Public Instruction may designate one or more suitable persons to sign or countersign warrants, vouchers, certificates or other papers and documents requiring the signature of the superintendent.

(6) Administer and supervise adult education programs in the public elementary and secondary schools.

(7) Perform such other functions as may be necessary to the performance of the duties of the superintendent. [1965 c.100 §11; 1989 c.491 §3; 1993 c.45 §13; 1995 c.67 §37; 1999 c.938 §3; 2003 c.226 §2]

326.320 Fees for supplies and publications provided by department. (1) Except as otherwise provided by law or by rules of the State Board of Education, the Superintendent of Public Instruction shall establish and collect fees for supplies and publications compiled and furnished by the Department of Education and distributed or sold to other persons or groups. The fees may not exceed costs of production plus mailing and other distribution costs.

(2) The superintendent shall deposit all moneys received under subsection (1) of this section in the Education Cash Account established by ORS 327.485. The Department of Education shall keep a record of all moneys deposited in the account. The record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity against which each withdrawal is charged. [1965 c.100 §12; 1979 c.570 §1; 1993 c.45 §14; 2011 c.313 §1]

326.323 Superintendent's signature on public contracts. The Superintendent of Public Instruction may use a facsimile signature on public contracts for personal services if the value of the contract is \$3,000 or less. [2001 c.37 §1]

326.327 Agreement by superintendent to ensure availability of instruction of Chinese language. The Superintendent of Public Instruction is authorized to enter into an agreement with another nation or public agency of another nation under ORS 190.485 for the purpose of ensuring that the instruction of the Mandarin dialect of the Chinese language is available to the public school students of this state by facilitating the placement of teachers in public schools who fluently speak the Mandarin dialect of the Chinese language. [2010 c.13 §1]

326.330 [1965 c.100 §13; 1991 c.887 §1; repealed by 2011 c.731 §1 (326.300 enacted in lieu of 326.330)]

Note: The repeal of 326.330, by section 1, chapter 731, Oregon Laws 2011, does not apply to the Superintendent of Public Instruction who was holding office on August 5, 2011, or to any Deputy Superintendent of Public Instruction appointed by the Superintendent of Public Instruction who was holding office on August 5, 2011. See section 26, chapter 731, Oregon Laws 2011. The text that applies to the Superintendent of Public Instruction who was holding office on August 5, 2011, and to any Deputy Superintendent of Public Instruction appointed by the Superintendent of Public Instruction who was holding office on August 5, 2011, is set forth for the user's convenience.

326.330 Deputy Superintendents of Public Instruction; appointment; powers. (1) The Superintendent of Public Instruction may appoint Deputy Superintendents of Public Instruction, for whose acts the superintendent shall be responsible. A deputy may perform any act or duty of the office of Superintendent of Public Instruction designated by the superintendent.

(2) Notice of the appointment of a deputy and the duties designated for the deputy shall be filed with the Secretary of State.

326.340 Disposition of conference fees by superintendent; disbursement of fees.

(1) When the Superintendent of Public Instruction has possession or control of conference fees that are made available for training programs sponsored in whole or in part by the Department of Education, the fees shall be deposited with the State Treasurer in the Education Training Revolving Account which is established and which shall be separate and distinct from the General Fund. Interest earned by the account shall be credited to the account.

(2) Disbursements from the account to persons lawfully entitled thereto may be made by the Superintendent of Public Instruction or designee, by checks or orders drawn upon the State Treasurer. [1989 c.966 §76]

326.350 Authority for department staff to serve on education-related organizations; Educational Organizations Fund; disbursements. (1) The Superintendent of Public Instruction may authorize staff members of the Department of Education to serve as executive directors of education-related organizations and in so doing manage the funds of those organizations.

(2) The Educational Organizations Fund is established. Moneys received under this section shall be deposited with the State Treasurer in the Educational Organizations Fund which shall be separate and distinct from the General Fund. Interest earned by the account shall be credited to the account.

(3) Disbursements from the account to persons lawfully entitled thereto may be made by the Superintendent of Public Instruction or designee, by checks or orders drawn upon the State Treasurer. [1989 c.966 §77; 2001 c.104 §107]

SCHOOL CENSUS

326.355 Determination of school census. (1) The Superintendent of Public Instruction shall prorate the annual estimate of census as provided in ORS 327.410 and 327.420 in proportion as the resident average daily membership of each education service district bears to the total resident average daily membership of the state and certify such to the administrative officer of each education service district.

(2) Subject to guidelines approved by the Superintendent of Public Instruction, the administrative officer of each education service district shall apportion the census so certified to those common school districts reporting to the education service district. The estimated district census determined by this manner shall be deemed applicable to all statutory references to the term "census" or "school-age child" in Oregon Revised Statutes. [Formerly 332.575; 2003 c.226 §3]

DEPARTMENT OF COMMUNITY COLLEGES AND WORKFORCE DEVELOPMENT

326.370 Department of Community Colleges and Workforce Development under State Board of Education; rules. (1) The Department of Community Colleges and Workforce Development shall function under the direction and control of the State Board of Education with the Commissioner for Community College Services serving as an administrative officer for community college matters.

(2) The Department of Community Colleges and Workforce Development, in consultation with the Education and Workforce Policy Advisor and pursuant to ORS chapter 183, may adopt any rules necessary for the administration of laws related to the federal Workforce Investment Act that the department is charged with administering. [1999 c.39 §1; 2001 c.684 §1]

326.373 Department of Community Colleges and Workforce Development Account. (1) The Department of Community Colleges and Workforce Development Account is established separate and distinct from the General Fund. Except for moneys otherwise designated by statute, all fees, assessments and other moneys received by the Department of Community Colleges and Workforce Development shall be deposited into the State Treasury and credited to the account. All moneys in the account are continuously appropriated to the department for purposes authorized by law.

(2) The department may accept gifts, grants and donations from any source to carry out the duties imposed upon the department. Moneys received under this subsection shall be paid into the account.

(3) The department shall keep a record of all moneys deposited into the account. The record shall indicate by separate cumulative subaccounts the sources from which the moneys are derived and the individual activity or program against which each withdrawal is charged.

(4) Disbursements from the account shall be made as directed by the department. [2001 c.716 §13]

326.375 Commissioner for Community College Services; appointment; duties. (1) The State Board of Education shall appoint a Commissioner for Community College Services who shall serve at the pleasure of the board.

(2) The commissioner shall be a person who by training and experience is well qualified to perform the duties of the office and to assist in carrying out the functions of the board under ORS 326.041, 326.051, 326.375, 341.005, 341.015, 341.440, 341.455, 341.626, 341.655 and 341.933.

(3) The commissioner shall:

(a) Be the executive head of the Department of Community Colleges and Workforce Development;

(b) Direct and supervise all activities of the Department of Community Colleges and Workforce Development;

(c) Hire staff, as authorized by the State Board of Education to assist in carrying out the duties of the commissioner. The staff shall be considered employees of the Department of Community Colleges and Workforce Development for purposes of ORS chapters 240 and 243; and

(d) Be responsible directly to the State Board of Education for those duties enumerated in ORS chapter 341.

(4) The commissioner, with approval of the State Board of Education, shall be responsible for the representation of community college interests to the Governor, the Legislative Assembly, state agencies and others. The commissioner, with the approval of the state board, shall be responsible for submitting community college budget requests and budget reports for the Department of Community Colleges and Workforce Development to the Legislative Assembly. The state board shall insure that the budget request for community colleges and for the Department of Community Colleges and Workforce Development are separate and distinct from its other requests to the Legislative Assembly. [1987 c.474 §3; 1991 c.757 §2; 1995 c.67 §38; 1999 c.39 §4]

326.380 Advanced Technology Education and Training Fund. There is created within the State Treasury, separate and distinct from the General Fund, the Advanced Technology Education and Training Fund. Moneys in the fund are continuously appropriated to the Department of Community Colleges and Workforce Development for the purpose of making grants and loans for the provision of advanced technology education and training opportunities under ORS 326.382. [2003 c.798 §1]

326.382 Advanced technology education and training grants and loans; rules.

(1) The Department of Community Colleges and Workforce Development shall establish by rule a process for making grants or loans to public-private partnerships to provide advanced technology education and training opportunities. The purpose of the grants and loans is to support the development and implementation of public-private partnerships to provide advanced technology education and training opportunities in all business and industry sectors for individuals in communities throughout Oregon. The partnerships shall be between public and private entities and may include joint ventures among business and industry, school districts, education service districts, eligible post-secondary institutions as defined in ORS 348.180 and public bodies as defined in ORS 174.109.

(2) A public-private partnership that receives a grant or loan under this section must provide advanced technology education and training opportunities that:

(a) Address current and future workforce development needs dictated by Oregon's rapidly changing economy;

(b) Facilitate sustainable and dynamic economic development in communities by creating flexible opportunities for workforce development;

(c) Establish results oriented, collaborative investments of public and private resources in communities throughout Oregon;

(d) Ensure that Oregon's capacity for economic growth and vitality is not limited by a lack of opportunities for workforce development; and

(e) Provide support to existing community efforts to establish innovative strategies for delivering advanced technology education and training.

(3) The process established by the department for making grants and loans shall ensure that:

(a) Local communities are informed about the availability of the grants and loans;

(b) Advanced technology education and training projects are geographically distributed throughout Oregon;

(c) There is equal opportunity for urban and rural access to quality education and training opportunities;

(d) Representatives of related, ongoing community efforts assist in the implementation of advanced technology education and training projects; and

(e) Procedures and timelines are designed to minimize barriers to receiving funds.

(4) When considering applications for grants and loans, the department shall give priority to advanced technology education and training projects that:

(a) Provide or increase access for individuals to advanced technology education and training through the efforts of local and regional career centers and partnerships and distance education technology available locally and regionally;

(b) In combination with other projects receiving funds, contribute to advanced technology education and training opportunities in every part of the state;

(c) Use federal funds;

(d) Have widespread community support as evidenced by a memorandum of agreement or similar documentation;

(e) Represent an effective sharing of resources through public-private partnerships among business and industry, school districts, education service districts, eligible post-secondary institutions as defined in ORS 348.180 and public bodies as defined in ORS 174.109;

(f) Have a long-term strategic plan and lack only the necessary financial resources;

(g) Provide state-of-the-art technology that meets current standards of business and industry and addresses local and regional economic development priorities;

(h) Help individuals connect education and training with career planning and job opportunities through local and regional career centers as implemented under the federal Workforce Investment Act;

(i) Provide articulated education programs that lead to a degree or an industry-specific skills certification; and

(j) Establish short-term training programs that meet the immediate needs of local employers in their communities.

(5)(a) A public-private partnership awarded a grant or loan under this section shall use the grant or loan for any of the following:

(A) Infrastructure construction or reconstruction.

(B) Equipment or technology purchases.

(C) Curriculum development.

(D) Expansion or revision of a current project to increase the capacity of the project, alter the project plan, change the members of the partnership or address education or employment deficiencies in the community served by the public-private partnership.

(b) A grant or loan awarded under this section for the purpose described in para-

graph (a)(D) of this subsection may not exceed \$25,000.

(6) The application for a grant or loan under this section shall include:

(a) The names of the members of the public-private partnership;

(b) A description of standards used to assess the performance of the project;

(c) An estimate of the number of individuals who will be served by the project;

(d) The name of the fiscal agent of the public-private partnership;

(e) A project plan covering at least the first two years after receipt of a grant or loan; and

(f) The name of the person who will be responsible for convening the public-private partnership on a regular basis.

(7) The department may accept contributions of funds and assistance from the United States Government or its agencies or from any other source, public or private, and agree to conditions placed on the funds not inconsistent with the purposes of this section.

(8) Any moneys received by the department through repayment of a loan awarded under this section, or received by the department under subsection (7) of this section, shall be deposited by the department in the Advanced Technology Education and Training Fund. [2003 c.798 §2; 2005 c.22 §230; 2005 c.216 §1]

326.400 [1989 c.968 §1; repealed by 1993 c.45 §15 and 1993 c.156 §1]

326.410 [1989 c.968 §2; repealed by 1993 c.45 §16 and 1993 c.156 §1]

326.510 [Formerly 343.950; 1973 c.708 §1; renumbered 343.960]

INTELLECTUAL PROPERTY

326.520 Acquisition of intellectual property by board. The State Board of Education may acquire intellectual property of any kind, whether patentable or copyrightable or not, including patents, copyrights, inventions, discoveries, processes and ideas. Such property may be acquired:

(1) By gift.

(2) By outright purchase with money in the Board of Education Invention Fund or otherwise made available for such purpose.

(3) By assignment pursuant to a contract whereby the board undertakes to aid in the development of the assigned property and to pay the assignor a share of any money received on account of its ownership or management thereof. [Formerly 326.102]

326.530 Management, development and disposition of intellectual property.

(1) The State Board of Education may manage, develop or dispose of property acquired under ORS 326.520 in any manner deemed by the board to be in the public interest. The board may contract with any person regarding such management, development or disposition.

(2) The board may determine the terms and conditions of any transaction authorized by ORS 326.520 to 326.540 and need not require competitive bids in connection therewith. No formal publicity or advertising is required regarding property for the development of which the board wishes to contract, but the board shall make reasonable efforts to disseminate pertinent information in appropriate research and industrial circles.

(3) If the board deems it inadvisable to proceed with the development or management of property acquired under ORS 326.520, it may reassign such property to the person from whom it was acquired upon being compensated for any expenditure made on account of such property. [Formerly 326.104]

326.540 Revenue from intellectual property; Board of Education Invention Fund; purpose.

(1) Moneys received by the State Board of Education as a result of ownership or management of property acquired under ORS 326.520 or of transactions regarding such property shall be deposited in the State Treasury and credited to a special fund separate and distinct from the General Fund to be known as the Board of Education Invention Fund.

(2) The moneys in the Board of Education Invention Fund are continuously appropriated to the board for the following purposes:

(a) To pay the agreed share of an assignor of intellectual property.

(b) For the advancement of research in an institution under its control.

(c) For the acquisition, management or development of intellectual property. [Formerly 326.106; 2005 c.755 §18]

REAL PROPERTY

326.543 Adverse possession. (1) As used in this section:

(a) "Education service district" has the meaning given that term in ORS 334.003.

(b) "Facility" means the school operated under ORS 346.010.

(c) "Post-secondary institution" means:

(A) A community college as defined in ORS 341.005;

(B) A public university listed in ORS 352.002; and

(C) The Oregon Health and Science University.

(d) "School district" has the meaning given that term in ORS 330.005.

(2) The interest or estate of an education service district, a facility, a post-secondary institution or a school district in any real property may not be extinguished or diminished by adverse possession. [2007 c.552 §1; 2009 c.562 §19; 2011 c.637 §104]

GENERAL EDUCATIONAL DEVELOPMENT (GED) CERTIFICATES**326.550 General Educational Development (GED) certificates; rules; how fee determined; accounting.**

(1) The Commissioner for Community College Services may issue General Educational Development (GED) certificates to persons who demonstrate satisfactory performance in tests prescribed under subsection (2) of this section or meet the requirements of any prescribed evaluative procedure.

(2) The State Board of Education by rule may prescribe tests and other appropriate evaluation procedures for the purposes of subsection (1) of this section and may establish age, residence and other relevant qualifications for applicants.

(3) The Department of Community Colleges and Workforce Development may utilize its personnel and facilities for the administration of this section, and the State Board of Education may establish by rule a nonrefundable application fee. The fee may be waived by the State Board of Education in case of hardship.

(4) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fee, the fee established under subsection (3) of this section shall not exceed the cost of administering the program, as authorized by the Legislative Assembly within the board's budget, as the budget may be modified by the Emergency Board.

(5) All moneys received under this section shall be deposited in the State Treasury to the credit of the Department of Community Colleges and Workforce Development and shall be used exclusively for administration of this section. The Department of Community Colleges and Workforce Development shall keep a record of all moneys deposited in such account. The record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity against which each withdrawal is charged.

(6) The Commissioner for Community College Services shall consult with the Superintendent of Public Instruction on all

matters related to evaluation procedures used to measure equivalent achievement under this section. The superintendent is authorized to make independent recommendations on evaluation procedures to the State Board of Education in those cases where the superintendent's judgment differs from that of the commissioner. [Amended by 1967 c.571 §1; 1979 c.386 §1; 1979 c.570 §2; 1983 c.159 §1; 1989 c.491 §4; 1991 c.703 §5; 1993 c.45 §17; 1997 c.249 §94]

326.560 [1985 c.464 §1; repealed by 1993 c.45 §18]

STUDENT RECORDS

326.565 Standards for student records; rules. The State Board of Education shall adopt by rule standards for the creation, use, custody and disclosure, including access, of student education records that are consistent with the requirements of applicable state and federal law. The state board shall distribute the rules that are adopted to all school districts. The school districts shall make those rules available to the public schools in the district and to the public. The state board may differentiate the standards applicable to persons 18 years of age or older or enrolled in post-secondary institutions. The standards shall include requirements under which public and private schools and education service districts transfer student education records pursuant to ORS 326.575. [1993 c.806 §3 (326.565, 326.575 and 336.187 enacted in lieu of 336.185, 336.195 and 336.215); 1995 c.15 §1]

326.575 Records when student transfers or is placed elsewhere; notice to parents; amendments to records; rules. (1) Within 10 days of a student's seeking initial enrollment in a public or private school or when a student is placed in a state institution, other than an institution of post-secondary education, or a day treatment program, residential treatment program, detention facility or youth care center, the school, institution, program, facility or center shall notify the public or private school or the institution, program, facility or center in which the student was formerly enrolled and shall request the student's education records.

(2) Any public or private school, state institution, day treatment program, residential treatment program, detention facility or youth care center receiving the request described in subsection (1) of this section shall transfer all student education records relating to the particular student to the requesting school, institution, program, facility or center no later than 10 days after the receipt of the request. The education records shall include any education records relating to the particular student retained by an education service district.

(3) Notwithstanding subsections (1) and (2) of this section, for students who are in substitute care programs:

(a) A school, institution, program, facility or center shall notify the school, institution, program, facility or center in which the student was formerly enrolled and shall request the student's education records within five days of the student seeking initial enrollment; and

(b) Any school, institution, program, facility or center receiving a request for a student's education records shall transfer all student education records relating to the particular student to the requesting school, institution, program, facility or center no later than five days after the receipt of the request.

(4) Each educational institution that has custody of the student's education records shall annually notify parents and eligible students of their right to review and propose amendments to the records. The State Board of Education shall specify by rule the procedure for reviewing and proposing amendments to a student's education records. If a parent's or eligible student's proposed amendments to a student's education records are rejected by the educational institution, the parent or eligible student shall receive a hearing on the matter. The State Board of Education shall specify by rule the procedure for the hearing.

(5) As used in this section:

(a) "Day treatment program" means a program described in ORS 343.961.

(b) "Detention facility" has the meaning given that term in ORS 419A.004.

(c) "Educational institution" means a public or private school, education service district, state institution, day treatment program, residential treatment program or youth care center.

(d) "Residential treatment program" means a program described in ORS 343.961.

(e) "Substitute care program" has the meaning given that term in ORS 339.133.

(f) "Youth care center" means a center as defined in ORS 420.855. [1993 c.806 §4 (326.565, 326.575 and 336.187 enacted in lieu of 336.185, 336.195 and 336.215); 1995 c.15 §2; 2001 c.681 §1; 2005 c.521 §3; 2011 c.313 §2; 2011 c.701 §4]

326.580 Electronic student records; rules; standards; participation by educational institutions. (1) As used in this section, "educational institution" means:

(a) An "educational institution" as defined in ORS 326.575.

(b) A state agency.

(c) A local correctional facility.

(2) The State Board of Education may adopt by rule standards for the content and format of an Oregon electronic student record. An Oregon electronic student record may be used to transfer student record information from one educational institution to another.

(3) The board may define the Oregon electronic student record to constitute a full and complete copy of the official student permanent record, student education record and certificate of immunization status that are required by state and federal law.

(4) The standards established by the board shall include procedures and criteria for participation in the Oregon electronic student record program by educational institutions. An educational institution may apply to the Department of Education for a certificate of participation in the Oregon electronic student record program.

(5) An educational institution that is approved for participation in the Oregon electronic student record program by the Department of Education:

(a) Shall not be required to forward by mail or other means physical items such as original documents or photocopies to a receiving educational institution that also is approved for participation in the program. This paragraph does not apply to special education records that are specifically required by federal law to be physically transferred.

(b) May elect to designate the Oregon electronic student record as the official student record.

(c) Shall retain the official student record in compliance with state and federal law. [2001 c.450 §1]

326.585 Definitions for ORS 326.587 and 326.589. As used in ORS 326.587 and 326.589:

(1) "Disclose" means to make available for review by another person.

(2) "Law enforcement agency" has the meaning given that term in ORS 181.010.

(3) "Wages" has the meaning given that term in ORS 652.210. [2003 c.776 §1]

326.587 Disclosure of Social Security number of student attending public university. (1) A public university listed in ORS 352.002 may not disclose the Social Security number of a student who is attending the public university.

(2) Subsection (1) of this section does not apply if the public university discloses the Social Security number:

(a) At the request of a law enforcement agency or an agency providing support enforcement services under ORS 25.080;

(b) After obtaining written permission for the disclosure from the student to whom the number refers;

(c) In the payment of wages or benefits;

(d) In the payment or collection of taxes or of a debt owed by the student to whom the number refers; or

(e) For purposes of statistical analysis. [2003 c.776 §2; 2011 c.637 §105]

326.589 Disclosure of Social Security number of community college student. (1) A community college as defined in ORS 341.005 may not disclose the Social Security number of a student who is attending the college.

(2) Subsection (1) of this section does not apply if the college discloses the Social Security number:

(a) At the request of a law enforcement agency or an agency providing support enforcement services under ORS 25.080;

(b) After obtaining written permission for the disclosure from the student to whom the number refers;

(c) In the payment of wages or benefits;

(d) In the payment or collection of taxes or of a debt owed by the student to whom the number refers; or

(e) For purposes of statistical analysis. [2003 c.776 §3]

326.591 Action for disclosure of Social Security number. (1) A student who suffers an ascertainable loss of money, personal property or real property as a result of a violation of ORS 326.587 or 326.589 may bring an action in a circuit court to recover the student's actual damages.

(2) The court may award reasonable attorney fees to the party that prevails in an action on a claim under this section. [2003 c.776 §4]

326.600 [1987 c.684 §1; 1989 c.477 §1; renumbered 329.170 in 1993]

CRIMINAL OFFENDER INFORMATION PROCESS

326.603 Authority of school districts and schools to obtain fingerprints and criminal records check of employees and contractors; fee. (1) For the purposes of requesting a state or nationwide criminal records check under ORS 181.534, the Department of Education may require the fingerprints of:

(a) A school district or private school contractor, whether part-time or full-time, or an employee of a contractor, whether part-time or full-time, who has direct, unsupervised contact with students as determined by the district or private school.

(b) A person newly hired, whether part-time or full-time, by a school district or private school in a capacity not described in ORS 342.223 (1).

(c) A person who is a community college faculty member providing instruction at a kindergarten through grade 12 school site during the regular school day.

(d) A person who is an employee of a public charter school.

(2)(a) A school district shall send to the Department of Education for purposes of a criminal records check any information, including fingerprints, for each person described in subsection (1) of this section.

(b) A private school may send to the Department of Education for purposes of a criminal records check any information, including fingerprints, for each person described in subsection (1)(a), (b) or (c) of this section.

(3) The Department of Education shall request that the Department of State Police conduct a criminal records check as provided in ORS 181.534 and may charge the school district or private school a fee as established by rule under ORS 181.534. The school district or private school may recover its costs or a portion thereof from the person described in subsection (1) of this section. If the person described in subsection (1)(b) or (d) of this section requests, the school district shall and a private school may withhold the amount from amounts otherwise due the person, including a periodic payroll deduction rather than a lump sum payment.

(4) Notwithstanding subsection (1) of this section, the Department of Education may not require fingerprints of a person described in subsection (1) of this section if the person or the person's employer was checked in one school district or private school and is currently seeking to work in another district or private school unless the person lived outside this state during the interval between the two periods of time of working in the district or private school.

(5) Nothing in this section requires a person described in subsection (1)(a), (b) or (d) of this section to submit to fingerprinting until the person has been offered employment or a contract by a school district or private school. Contractor employees may not be required to submit to fingerprinting until the contractor has been offered a contract.

(6) If a person described in subsection (1) of this section states on a criminal history form provided by the Department of Education that the person has not been convicted of a crime but the criminal records check indicates that the person has a conviction, the department shall determine whether the

person knowingly made a false statement as to the conviction. The department shall develop a process and criteria to use for appeals of a determination under this subsection.

(7)(a) The Superintendent of Public Instruction shall inform a school district or private school if a person described in subsection (1) of this section has been convicted of a crime listed in ORS 342.143 (3) or has knowingly made a false statement on a criminal history form provided by the Department of Education as to the conviction of any crime.

(b) If a person described in subsection (1) of this section has been convicted of a crime listed in ORS 342.143 (3), a school district may not employ or contract with the person and a private school may choose not to employ or contract with the person. Notification by the superintendent that the school district may not employ or contract with the person shall remove the person from any school district policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of ORS 342.805 to 342.937.

(c) If a person described in subsection (1) of this section has knowingly made a false statement on a criminal history form provided by the Department of Education as to the conviction of a crime not listed in ORS 342.143 (3), a school district or private school may choose to employ or contract with the person.

(8) If a person described in subsection (1) of this section refuses to consent to the criminal records check or refuses to be fingerprinted, the school district shall terminate the employment or contract status of the person. Termination under this subsection removes the person from any school district policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of ORS 342.805 to 342.937.

(9) A school district may not hire or continue to employ or contract with or allow the contractor to continue to assign a person to the school project if the person described in subsection (1) of this section has been convicted of a crime according to the provisions of ORS 342.143.

(10) As used in this section and ORS 326.607:

(a) "Private school" means a school that:

(A) Offers education in prekindergarten, kindergarten or grades 1 through 12, or any combination of those grade levels; and

(B) Provides instructional programs that are not limited solely to dancing, drama, music, religious or athletic instruction.

(b) “School district” means:

(A) A school district as defined in ORS 330.003.

(B) The Oregon School for the Deaf.

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

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

(E) An education service district. [1993 c.674 §8; 1995 c.67 §40; 1995 c.446 §7; 1997 c.4 §1; 1997 c.536 §1; 1997 c.753 §2; 1999 c.200 §25; 1999 c.1054 §4; 2001 c.407 §4; 2005 c.730 §13; 2007 c.35 §1; 2007 c.858 §63; 2009 c.437 §1; 2009 c.562 §20; 2011 c.301 §5]

326.604 Authority of Department of Education to obtain fingerprints and criminal records check of employees. For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, the Department of Education may require the fingerprints of a person who:

(1)(a) Is employed or applying for employment by the department; or

(b) Provides services or seeks to provide services to the department as a contractor, vendor or volunteer; and

(2) Is, or will be, working or providing services in a position:

(a) In which the person has unsupervised access to children;

(b) In which the person has access to confidential or personal information about children, as may be further defined by the State Board of Education by rule;

(c) In which the person is providing information technology services and has control over, or access to, information technology systems that would allow the person to harm the information technology systems or the information contained in the systems;

(d) In which the person has access to information, the disclosure of which is prohibited by state or federal laws, rules or regulations or information that is defined as confidential under state or federal laws, rules or regulations;

(e) That has payroll functions or in which the person has responsibility for receiving, receipting or depositing money or negotiable instruments, for billing, collections or other financial transactions or for purchasing or selling property or has access to property held in trust or to private property in the temporary custody of the department;

(f) That has mailroom duties as the primary duty or job function of the position;

(g) In which the person has responsibility for auditing the department;

(h) That has personnel or human resources functions as one of the position’s primary responsibilities; or

(i) In which the person has access to personal information about employees or members of the public, including Social Security numbers, dates of birth, driver license numbers, medical information, personal financial information or criminal background information. [2009 c.438 §1]

326.605 [1987 c.684 §2; 1989 c.477 §2; renumbered 329.175 in 1993]

326.606 Department rulemaking related to criminal records checks. Notwithstanding ORS 183.335 (5), the Department of Education may not adopt a rule related to criminal records checks, as provided by ORS 326.604, without prior notice or hearing or upon abbreviated notice and hearing. [2009 c.438 §2]

326.607 Authority of school districts and schools to obtain criminal records check of volunteers and applicants for employment; fee. (1) Upon request from a school district, a private school or a public charter school or a school district, private school or public charter school contractor and with consent from the individual, the Department of Education may conduct an Oregon criminal records check using the Law Enforcement Data System for screening an individual who is a volunteer for the school district, private school or public charter school and who has direct, unsupervised contact with school children, or for screening applicants for employment.

(2) The department may charge the requesting school district, private school, public charter school or school district, private school or public charter school contractor a fee not to exceed \$5 for each request under subsection (1) of this section. [1995 c.446 §3; 1997 c.536 §2; 1999 c.200 §26; 2005 c.730 §14]

326.610 [1987 c.684 §3; 1989 c.477 §3; renumbered 329.180 in 1993]

326.615 [1987 c.684 §4; 1989 c.477 §4; 1993 c.676 §48; renumbered 329.190 in 1993]

326.620 [1987 c.684 §5; 1989 c.477 §5; renumbered 329.195 in 1993]

326.625 [1987 c.684 §6; 1989 c.477 §6; renumbered 329.200 in 1993]

YOUTH CORRECTIONS AND JUVENILE DETENTION EDUCATION PROGRAMS

326.695 Definitions for ORS 326.700 and 326.712. As used in ORS 326.700 and 326.712:

(1) “Juvenile Detention Education Program” means the provision of educational services to youths lodged overnight who receive educational services on consecutive

days within a detention facility, as defined in ORS 419A.004.

(2) “Youth Corrections Education Program” means the provision of educational services to youths in youth correction facilities, as defined in ORS 420.005. [2001 c.681 §2]

326.700 Purpose of programs; distribution of State School Fund. It is the purpose of ORS 326.712 and 327.026 and this section that youths enrolled in the Youth Corrections Education Program and the Juvenile Detention Education Program administered by the Department of Education be treated as nearly the same as practicable in the distribution of the State School Fund as children enrolled in common and union high school districts in this state. [Formerly 420.405; 2001 c.681 §3]

326.705 [1991 c.693 §1; 1993 c.45 §21; renumbered 329.005 in 1993]

326.710 [1991 c.693 §1b; 1993 c.45 §23; renumbered 329.015 in 1993]

326.712 Superintendent may contract with district to provide programs. The Superintendent of Public Instruction may contract with an education service district or a school district to provide teachers, counselors or other personnel for the Youth Corrections Education Program and the Juvenile Detention Education Program. However, the programs may not be considered a component district and the students enrolled in the programs may not be counted in determining the number of pupils in average daily membership for purposes of ORS

334.175 (5). [1995 c.798 §1; 1995 c.422 §133b; 2001 c.681 §4; 2005 c.828 §4]

326.715 [1991 c.693 §3; 1993 c.45 §24; renumbered 329.025 in 1993]

326.720 [1991 c.693 §2; 1993 c.45 §25; renumbered 329.035 in 1993]

326.725 [1991 c.693 §5; renumbered 329.045 in 1993]

326.730 [1991 c.693 §19g; 1993 c.45 §26; renumbered 329.445 in 1993]

326.735 [1991 c.693 §31; 1993 c.45 §27; renumbered 329.055 in 1993]

326.740 [1991 c.693 §37; 1993 c.45 §28; renumbered 329.065 in 1993]

326.745 [1991 c.693 §38; 1993 c.45 §29; renumbered 329.075 in 1993]

326.755 [1991 c.693 §7; renumbered 329.085 in 1993]

326.760 [1991 c.693 §8; renumbered 329.095 in 1993]

326.765 [1991 c.693 §9; 1993 c.45 §30; renumbered 329.105 in 1993]

326.770 [1991 c.693 §10; 1993 c.45 §31; renumbered 329.115 in 1993]

326.775 [1991 c.693 §4; 1993 c.45 §32; renumbered 329.125 in 1993]

326.785 [1991 c.693 §4c; renumbered 329.145 in 1993]

326.790 [1991 c.693 §4a; renumbered 329.150 in 1993]

326.795 [1991 c.693 §4b; 1993 c.676 §23; renumbered 329.155 in 1993]

326.810 [1991 c.693 §18; renumbered 329.160 in 1993]

326.813 [1991 c.693 §18a; renumbered 329.165 in 1993]

326.815 [1991 c.693 §18b; renumbered 329.185 in 1993]

326.830 [1991 c.693 §23; 1993 c.45 §33; renumbered 329.850 in 1993]

326.835 [1991 c.693 §28; renumbered 329.855 in 1993]

326.990 [Repealed by 1965 c.100 §456]