

Chapter 342

Teachers and Other School Personnel

Chapter 342

CASE CITATIONS: *Owens v. Sch. Dist.* 8R, (1970) 3 Or App 294, 473 P2d 678, Sup Ct review denied.

342.120

ATTY. GEN. OPINIONS: Administrative certificates of vice principals after July 1, 1965, 1962-64, p 374; hiring noncertificated persons to assist in the presentation of course material, 1966-68, p 171; withholding funds because of noncertified principal, 1966-68, p 354.

342.125

ATTY. GEN. OPINIONS: Authority of board to add requirements for certificate renewal, 1960-62, p 442.

342.130

ATTY. GEN. OPINIONS: Status of holders of administrative certificates issued under prior laws, 1950-52, p 269; administrative certificates of vice principals after July 1, 1965, 1962-64, p 374; expiration of certificates issued prior to July 1, 1965, 1962-64, p 405.

342.135

ATTY. GEN. OPINIONS: Authority of board to add requirements for certificate renewal, 1960-62, p 442.

342.140

ATTY. GEN. OPINIONS: Status of holders of administrative certificates issued under prior laws, 1950-52, p 269; administrative certificates of vice principals after July 1, 1965, 1962-64, p 374.

342.143

ATTY. GEN. OPINIONS: Constitutionality of citizenship requirement, (1970) Vol 35, p 367.

342.155

ATTY. GEN. OPINIONS: Hiring noncertificated persons to assist in the presentation of course material, 1966-68, p 171.

342.165

ATTY. GEN. OPINIONS: Authority of board to add requirements for certificate renewal, 1960-62, p 442.

342.173

ATTY. GEN. OPINIONS: Authority to compensate teacher who has no Oregon certificate, 1942-44, p 153; hiring noncertificated persons to assist in the presentation of course material, 1966-68, p 171; withholding funds because of non-

certified principal, 1966-68, p 304; application to community college instructors, (1969) Vol 34, p 675.

342.175

ATTY. GEN. OPINIONS: Right of Superintendent of Public Instruction to issue subpoenas to witnesses, 1930-32, p 396; procedure for cancellation of teaching certificate erroneously issued to unqualified teacher, 1952-54, p 41.

342.180

CASE CITATIONS: *Bay v. State Bd. of Educ.*, (1963) 233 Or 601, 378 P2d, 96 ALR 2d 529.

342.450

ATTY. GEN. OPINIONS: Duty to bargain with employe organizations, 1964-66, p 185; legality of procedure to determine board-teacher disputes, 1964-66, p 187; construing procedure for negotiation, 1966-68, p 112; consultations with committee after voter disapproval of budget, 1966-68, p 330; application to community college instructors, (1969) Vol 34, p 675.

342.460

ATTY. GEN. OPINIONS: Duty to bargain with employe organizations, 1964-66, p 185; legality of procedure to determine board-teacher disputes, 1964-66, p 187; construing procedure for negotiation, 1966-68, p 112; duty to agree, exclusiveness of authority of committee to represent all personnel, 1966-68, p 131; consultations with committee after voter disapproval of budget, 1966-68, p 330; application to community college instructors, (1969) Vol 34, p 675; subjects open to discussion, (1970) Vol 34, p 1099.

342.470

ATTY. GEN. OPINIONS: Duty to bargain with employe organizations, 1964-66, p 185; legality of procedure to determine board-teacher disputes, 1964-66, p 187; construing procedure for negotiation, 1966-68, p 112; construing "persistent disagreement"; appointment of consultants, 1966-68, p 112; consultations with committee after voter disapproval of budget, 1966-68, p 330; application to community college instructors, (1969) Vol 34, p 675.

342.505 to 342.553

CASE CITATIONS: *Bock v. Bend Sch. Dist.* 1, (1968) 252 Or 53, 448 P2d 521.

342.505

NOTES OF DECISIONS

1. Authority of board

The directors can only exercise such powers as are expressly conferred by statute or are implied from the nature

of the duties imposed upon them by law when making a contract with a teacher. *Stackpole v. Sch. Dist. 5*, (1881) 9 Or 508.

A contract for the employment of a teacher entered into in violation of the statute is not susceptible of enforcement. *Graham v. Sch. Dist.* (1898) 33 Or 263, 54 P 185.

Teachers may be employed at a regular meeting. *Stoddard v. Dist. Sch. Bd.*, (1932) 140 Or 203, 12 P2d 309.

Where such contracts are authorized at a regular meeting at which a quorum is present there need be no proof as to notice to the members of the board and its clerk as to the time, purpose or place of meeting. *Id.*

2. Necessity of written contract

A contract for the employment of a teacher must be in writing. *Taggart v. Sch. Dist. 1*, (1920) 96 Or 422, 188 P 908, 1119; *Taggart v. Sch. Dist. 1*, (1920) 97 Or 95, 188 P 912, 191 P 659.

A teacher is presumed to know the law requiring contracts of employment to be in writing and cannot rely upon the apparent authority of the superintendent of the district to hire teachers orally. *Taggart v. Sch. Dist. 1*, (1920) 96 Or 422, 188 P 908, 1119.

Evidence not showing a written agreement between the directors and a teacher, filed with the clerk, was insufficient to support a verdict for compensation. *Taggart v. Sch. Dist. 1*, (1920) 97 Or 95, 188 P 912, 191 P 659.

3. Terms of contract

The rules of the State Board of Education are part of the provisions of a teacher's contract. *Foreman v. Sch. Dist. 25*, (1916) 81 Or 587, 159 P 1155, 1168; *Bump v. Union Sch. Dist. 3*, (1933) 144 Or 390, 24 P2d 330.

A condition voiding the contract of a female teacher upon her marriage may be inserted into the contract. *Hendryx v. Sch. Dist. 4*, (1934) 148 Or 83, 35 P2d 235.

4. Ratification of contract

The board ratifies a contract made by one of the school district officials when payment is made to the teacher concerned for services rendered. *Lommasson v. Sch. Dist. 1*, (1954) 201 Or 71, 261 P2d 860, 267 P2d 1105.

A contract for the employment of a teacher executed at a special meeting of the school directors irregularly called was ratified so as to be binding upon the school district by the payment of salary for part of the term with the approval and acquiescence of the board. *Graham v. Sch. Dist.*, (1898) 33 Or 263, 54 P 185.

The action of the school board in entertaining charges against a teacher was a recognition of her contractual rights under contracts executed with the teacher by the board. *Stoddard v. Dist. Sch. Bd.*, (1932) 140 Or 203, 12 P2d 309.

ATTY. GEN. OPINIONS: Procedure where teacher employed at salary greater than estimate in budget and when member of school board refused to sanction contract, 1920-22, p 525; refusal to vote necessary funds as relieving district from its obligation to maintain a school and to employ teachers therefor, 1920-22, p 550; effect of failure by county superintendent to declare the office of school director vacant, and validity of teacher's contract signed by a school director elected in such circumstances, 1920-22, p 576; effect of rule of school board as to election of teachers upon recommendation of superintendent, 1922-24, p 683; when enforceable contract comes into existence, 1924-26, p 511, 1946-48, p 318; compliance with statutory condition as necessary to formation of a binding contract, 1924-26, p 528; authority to issue warrants for an amount in excess of the sum called for in teachers' contracts as payments of the obligation, 1924-26, p 667.

Validity of rider attached to teacher's contract pledging her to attend summer school, 1926-28, p 471; authority to

contract with teacher for more than one year at a time, 1926-28, p 55; right to hire teachers prior to the adoption of budget, 1928-30, p 294; teacher is entitled to pay for days absent on account of inclement weather, 1928-30, p 474; provision as to residence in teacher's contract as contrary to public policy, 1930-32, p 67; necessity that teacher's contract definitely specify number of months to be taught under contract, 1930-32, p 627; validity of teacher's contract not signed by clerk, and a contract not signed by chairman of board of directors, 1930-32, p 743, 787; nontermination of unexpired teachers' contracts when board of district ceases to function, 1932-34, p 229; right of teacher to receive payment for Christmas and New Years days, 1930-32, p 535; authority to enter into contract with teachers for payment of regular salary and also for payment of a bonus, 1932-34, p 231; remedy in case a clerk or the chairman of the school board refuses to sign a teacher's contract or other legal paper, 1934-36, p 279; inserting provision that teachers' salaries shall be paid in 12 monthly instalments in contracts between a school board and its teachers, 1944-46, p 504; same person as teacher and member of State Board of Education, 1960-62, p 242; authority of district to provide health and accident insurance for teachers, 1964-66, p 167.

342.508

NOTES OF DECISIONS

The giving of notice to the teacher is not a power but a duty of the district board. *Owens v. Sch. Dist. 8R*, (1970) 3 Or App 294, 473 P2d 678, Sup Ct review denied.

The board may not enact any rule that violates this statute. *Id.*

ATTY. GEN. OPINIONS: Effect on administrative school district of teachers' contracts entered into by component districts, 1958-60, p 334; right of hearing if contract not renewed, record entry of reasons, 1962-64, p 403.

342.513

NOTES OF DECISIONS

The only requirement necessary to termination is notice. *Stowe v. Sch. Dist. 8-C*, (1965) 240 Or 526, 402 P2d 740.

The giving of notice to the teacher is not a power but a duty of the district board. *Owens v. Sch. Dist. 8R.*, (1970) 3 Or App 294, 473 P2d 678, Sup Ct review denied.

The board may not enact any rule that violates this statute. *Id.*

ATTY. GEN. OPINIONS: Recission of agreement to employ teacher after election, 1946-48, p 318; superintendent of schools as within the provisions of this section, 1946-48, p 494; right of hearing if contract not renewed, record entry of reasons, 1962-64, p 403.

342.515

ATTY. GEN. OPINIONS: Computing degree of relationship according to civil law, 1924-26, p 609; validity of contract made with teacher who is related to member of school board, 1928-30, p 481; marriage of daughter of school director and son of teacher as affecting right of school district to enter into contract with such teacher, 1934-36, p 288.

342.530

NOTES OF DECISIONS

The directors of a school district may summarily declare void the contract of a teacher lacking the statutory qualifications. *West v. Hedges*, (1918) 88 Or 158, 171 P 766.

ATTY. GEN. OPINIONS: Right to hearing if contract not renewed, 1962-64, p 403.

342.545

ATTY. GEN. OPINIONS: Sick leave taken before beginning to teach in performance of current contract, 1954-56, p 148.

342.553

ATTY. GEN. OPINIONS: Application to tenure teachers, 1962-64, p 198.

342.595

ATTY. GEN. OPINIONS: Sick leave taken before beginning to teach in performance of current contract, 1954-56, p 148; right to receive both sick leave and workmen's compensation, 1962-64, p 255.

342.596

ATTY. GEN. OPINIONS: Meaning of "permanent, full-time employe," 1958-60, p 83.

342.598

ATTY. GEN. OPINIONS: Authority of boards to pay premiums on employe life insurance, (1969) Vol 34, p 807; authority of district board to include dependents in insurance coverage, (1970) Vol 34, p 1103.

342.601

ATTY. GEN. OPINIONS: Authority of school districts to compensate a teacher who has no Oregon certificate, 1942-44, p 153; application to community college instructors, (1969) Vol 34, p 675.

342.602

ATTY. GEN. OPINIONS: County health officer signing and then countersigning certificate of health, 1946-48, p 64.

342.610

ATTY. GEN. OPINIONS: Requirement of legal minimum wage notwithstanding compensation received from system of higher education, 1938-40, p 308; application of this section to regularly certificated teacher serving as substitute, 1946-48, p 353; duty of board to fix compensation, 1966-68, p 112.

342.615

NOTES OF DECISIONS

The oath, as prescribed in this section, violates the U.S. Const. Amends. I and XIV. *Brush v. State Bd. of Higher Educ.*, (1966) 245 Or 373, 422 P2d 268.

ATTY. GEN. OPINIONS: Constitutionality of teacher's loyalty oath, 1964-66, p 62.

342.625

ATTY. GEN. OPINIONS: Constitutionality of teacher's loyalty oath, 1964-66, p 62.

342.650

ATTY. GEN. OPINIONS: Practice teaching in public school by one dressed in garb of a religious order, 1926-28, p 237.

342.805 to 342.960

CASE CITATIONS: *Lommasson v. Sch. Dist. 1*, (1954) 201 Or 71, 261 P2d 860, 267 P2d 1105; *Makinson v. Sch. Dist. 4*, (1956) 209 Or 232, 304 P2d 1076; *Ayers v. Lincoln County Sch. Dist.*, (1967) 248 Or 31, 432 P2d 170; *Bock v. Bend Sch. Dist. 1*, (1968) 252 Or 53, 448 P2d 521.

ATTY. GEN. OPINIONS: Reduction in salary for failure to take additional training, 1958-60, p 399; termination of tenure teachers, 1962-64, p 198; in consolidation of a city and county district, 1962-64, p 235.

342.815

ATTY. GEN. OPINIONS: Effect of voluntary resignation on a teacher's status under the tenure law, tenure for substitute teachers, 1950-52, p 101.

342.825

NOTES OF DECISIONS

This section was constitutional under the equal protection provisions of the Oregon and United States Constitutions. *Bock v. Bend Sch. Dist. 1*, (1968) 252 Or 53, 448 P2d 521.

342.845

NOTES OF DECISIONS

1. Under former similar statute

The power to dismiss a teacher existed, but could not be exercised unless the school board observed the procedure pointed out by the statute. *Richards v. Dist. Sch. Bd.*, (1916) 78 Or 621, 153 P 482, Ann Cas 1917D, 266, LRA 1916C, 789.

A teacher permanently employed did not hold an office. *Alexander v. Sch. Dist. 1*, (1917) 84 Or 172, 164 P 711.

The appointment under which a teacher had been teaching must have been not only valid, but "regular" in order to give her the rights of a "permanent" teacher. *Taggart v. Sch. Dist. 1*, (1920) 96 Or 422, 188 P 908, 1119.

The word "regular" meant in accordance with prescribed authority, or in the absence of prescribed authority, in accordance with the proper and appropriate method of procedure. *Taggart v. Sch. Dist. 1*, (1920) 96 Or 422, 188 P 908, 1119.

One appointed by superintendent of schools as a substitute to take the place of a regular teacher temporarily, was not "regularly" appointed. *Id.*

The fact that the school board accepted the services of a teacher irregularly appointed by the superintendent of the school district did not render her "regularly" appointed. *Id.*

ATTY. GEN. OPINIONS: Right of local school committee of subdistrict of county school district to reject teacher's services, 1944-46, p 28; authority to change permanently employed teacher's position, 1946-48, p 77; effect of voluntary resignation on a teacher's status under the tenure law, 1950-52, p 101.

342.895

CASE CITATIONS: *Bock v. Bend Sch. Dist. 1*, (1968) 252 Or 53, 448 P2d 521.

342.905

CASE CITATIONS: *Ayers v. Lincoln County Sch. Dist.*, (1967) 248 Or 31, 432 P2d 170; *Bock v. Bend Sch. Dist. 1*, (1968) 252 Or 53, 448 P2d 521.

342.915

CASE CITATIONS: Bock v. Bend Sch. Dist. 1, (1968) 252
Or 53, 448 P2d 521.