

ATTENDANCE; ADMISSION; ENFORCEMENT; PENALTIES

DEFINITION

339.005 Definition for ORS 339.040 and 339.125. As used in ORS 339.040 and 339.125, unless the context requires otherwise, "administrative office for the county" means the administrative office of the education service district or of a common school district that includes an entire county. [1965 c.100 §273; 1973 c.728 §3; 1987 c.158 §56; 1991 c.167 §23; 2003 c.226 §17]

COMPULSORY SCHOOL ATTENDANCE

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

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

339.030 Exemptions from compulsory school attendance.

(1) In the following cases, children shall not be required to attend public full-time schools:

(a) Children being taught in a private or parochial school in the courses of study usually taught in grades 1 through 12 in the public schools and in attendance for a period equivalent to that required of children attending public schools in the 1994-1995 school year.

(b) Children proving to the satisfaction of the district school board that they have acquired equivalent knowledge to that acquired in the courses of study taught in grades 1 through 12 in the public schools.

(c) Children who have received a high school diploma.

(d) Children being taught for a period equivalent to that required of children attending public schools by a private teacher the courses of study usually taught in grades 1 through 12 in the public school.

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

(f) Children excluded from attendance as provided by law.

(2) The State Board of Education by rule shall establish procedures whereby, on a semiannual basis, an exemption from compulsory attendance may be granted to the parent or legal guardian of any child 16 or 17 years of age who is lawfully employed full time, lawfully employed part time and enrolled in school, a community college or an alternative education program as defined in ORS 336.615. An exemption also may be granted to any child who is an emancipated minor or who has initiated the procedure for emancipation under ORS 419B.550 to 419B.558 [Amended by 1965 c.100 §276; 1967 c.67 §8; 1971 c.494 §1; 1973 c.728 §1; 1985 c.579 §1; 1989 c.619 §1; 1993 c.546 §138; 1995 c.769 §2; 1999 c.59 §85; 1999 c.717 §1; 2001 c.490 §8; 2007 c.407 §3]

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

(1) As used in this section, "education service district" means the education service district that contains the school district of which the child is a resident.

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

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

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

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

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

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

(c) The person administering the examination shall:

(A) Score the examination; and

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

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

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

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

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

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

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

ATTENDANCE; ADMISSION; ENFORCEMENT; PENALTIES

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

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

(c) If the parent or legal guardian of the child does not consent to placing the education of the child under the supervision of a licensed teacher who is selected by the parent or legal guardian, then the superintendent of the education service district may order the child to return to school for a period not to exceed 12 consecutive months as determined by the superintendent.

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

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

(b) The parent or legal guardian of a child with a disability who was evaluated by service providers selected by the parent or legal guardian based on a privately developed plan shall submit a report of such evaluation to the education service district in lieu of the examination results required by subsections (3) and (4) of this section.

(c) A child with a disability described in this subsection shall not be subject to the examination requirements of subsections (3) and (4) of this section unless the examination is recommended in the plan in effect for the child. [1985 c.579 §2; 1989 c.619 §4; 1999 c.717 §1a; 2007 c.70 §95]

339.040 Attendance supervisors; appointment; compensation.

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

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

(3) The administrative office for the county, upon written application for the district school board in any school district having a school census of more than 200 and less than 1,000 children, according to the latest school census, shall grant such

district permission to appoint attendance supervisors and fix their compensation and pay.

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

339.050 [Amended by 1965 c.100 §278; repealed by 1965 c.136 §1]

339.055 Duties of attendance supervisors. The attendance supervisor when notified of a truancy or unexcused absence shall investigate the truancy or nonattendance at school. If the child is not exempt from compulsory school attendance, the attendance supervisor shall proceed as provided in ORS 339.080 and 339.090. [Formerly 339.100]

339.060 [Repealed by 1965 c.100 §456]

339.065 Estimates of attendance; irregular attendance; excused absences. (1) In estimating regular attendance for purposes of the compulsory attendance provisions of ORS 339.005 to 339.030 and 339.040 to 339.125, 339.137, 339.420 and 339.990, the principal or teacher shall consider all unexcused absences. Eight, unexcused one-half day absences in any four-week period during which the school is in session shall be considered irregular attendance.

(2) An absence may be excused by a principal or teacher if the absence is caused by the pupil's sickness, by the sickness of some member of the pupil's family or by an emergency. A principal or teacher may also excuse absences for other reasons where satisfactory arrangements are made in advance of the absence.

(3) Any pupil may be excused from attendance by the district school board for a period not to exceed five days in a term of three months or not to exceed 10 days in any term of at least six months. Any such excuse shall be in writing directed to the principal of the school which the pupil attends.

[1965 c.100 §281; 1973 c.728 §4; 1987 c.158 §57; 1993 c.45 §114]

339.070 [Repealed by 1963 c.544 §57]

339.080 Nonattendance notice to parents and school officials.

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

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

ATTENDANCE; ADMISSION; ENFORCEMENT; PENALTIES

(3) If the child who is the subject of a notice under subsection (1) of this section is a youth offender on parole or probation, at the same time notice is given to the parent or other person, the attendance supervisor shall notify the child's parole or probation officer of the child's absence. [Amended by 1965 c.100 s.282; 1993 c.45 s.115; 1999 c.963 s.4]

339.090 Determination of compliance; notice to district superintendent. The attendance supervisor shall determine whether the parent or other person given written notice of attendance requirements has complied with the notice. If the attendance supervisor determines that the parent or other person has failed to comply, the attendance supervisor, within three days after having knowledge of such failure or after being notified thereof, shall notify the district superintendent. [Amended by 1965 c.100 §283; 1993 c.413 §2]

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

339.110 [Repealed by 1965 c.100 §456]

ENFORCEMENT

338.925 Compulsory school attendance violation procedure.

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

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

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

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

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

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

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

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

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

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

(4) All fines and court costs recovered from compulsory school attendance violations shall be paid to the clerk of the court involved. After deductions of court costs provided by law for the proceeding, the clerk shall pay the remainder of the money to the State Treasurer to be deposited in the Criminal Fine and Assessment Account in the General Fund.

PENALTIES

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

VIOLATIONS

153.018 Schedule of penalties.

(1) The penalty for committing a violation is a fine. The law creating a violation may impose other penalties in addition to a fine but may not impose a term of imprisonment.

(2) Except as provided in this section, a sentence to pay a fine for a violation shall be a sentence to pay an amount not exceeding:

(a) \$720 for a Class A violation.

(b) \$360 for a Class B violation.

(c) \$180 for a Class C violation.

(d) \$90 for a Class D violation.

(e) The amount otherwise established by law for any specific fine violation.

(3) If no special corporate fine is specified in the law creating the violation, a sentence to pay a fine for a violation committed by a corporation shall be in an amount not to exceed twice the fine established under this section for a violation by an individual. If a special corporate fine is specified in the law creating the violation, the sentence to pay a fine shall be governed by the law creating the violation.

(4) If a person or corporation has gained money or property through the commission of a violation, instead of sentencing the defendant to pay the fine provided for in subsection (2) or (3) of this section, the court may sentence the defendant to pay an amount fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the violation. For the purposes of this subsection, the defendant's gain is the amount of money or the value of property, as determined under ORS 164.115, derived from the commission of the violation, less the amount of money or the value of property, as determined under ORS 164.115, returned to the victim of the violation or seized by or surrendered to lawful authority before the time sentence is imposed. [1999 c.1051 §6; 2003 c.737 §103]

Note: Please refer to the 2009 Minimum Base-Fine Schedule (MBFS-09) that was issued by the Office of the State Court Administrator (Oregon Judicial Department) for changes to base fines for violations. (Effective for offenses committed between October 1, 2009 through June 30, 2011.)

ATTENDANCE; ADMISSION; ENFORCEMENT; PENALTIES

OFFENSES AGAINST PERSONS

163.577 Failing to supervise a child.

(1) A person commits the offense of failing to supervise a child if the person is the parent, lawful guardian or other person lawfully charged with the care or custody of a child under 15 years of age and the child:

(a) Commits an act that brings the child within the jurisdiction of the juvenile court under ORS 419C.005;

(b) Violates a curfew law of a county or any other political subdivision; or

(c) Fails to attend school as required under ORS 339.010.

(2) Nothing in this section applies to a child-caring agency as defined in ORS 418.205 or to foster parents.

(3) In a prosecution of a person for failing to supervise a child under subsection (1)(a) of this section, it is an affirmative defense that the person:

(a) Is the victim of the act that brings the child within the jurisdiction of the juvenile court; or

(b) Reported the act to the appropriate authorities.

(4) In a prosecution of a person for failing to supervise a child under subsection (1) of this section, it is an affirmative defense that the person took reasonable steps to control the conduct of the child at the time the person is alleged to have failed to supervise the child.

(5)(a) Except as provided in subsection (6) or (7) of this section, in a prosecution of a person for failing to supervise a child under subsection (1)(a) of this section, the court shall order the person to pay restitution under ORS 137.103 to 137.109 to a victim for economic damages arising from the act of the child that brings the child within the jurisdiction of the juvenile court.

(b) The amount of restitution ordered under this subsection may not exceed \$2,500.

(6) If a person pleads guilty or is found guilty of failing to supervise a child under this section and if the person has not previously been convicted of failing to supervise a child, the court:

(a) Shall warn the person of the penalty for future convictions of failing to supervise a child and shall suspend imposition of sentence.

(b) May not order the person to pay restitution under this section.

(7)(a) If a person pleads guilty or is found guilty of failing to supervise a child under this section and if the person has only one prior conviction for failing to supervise a child, the court, with the consent of the person, may suspend imposition of sentence and order the person to complete a parent effectiveness program approved by the court. Upon the person's completion of the parent effectiveness program to the satisfaction of the court, the court may discharge the person. If the person fails to complete the parent effectiveness program to the satisfaction of the court, the court may impose a sentence authorized by this section.

(b) There may be only one suspension of sentence under this subsection with respect to a person.

(8) The juvenile court has jurisdiction over a first offense of failing to supervise a child under this section.

(9) Failing to supervise a child is a Class A violation. [1995 c.593 §1; 1999 c.1051 §154; 2003 c.670 §5; 2005 c.564 §8]

Note: 163.577 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.