

### **342.513 Renewal or nonrenewal of contracts for following year.**

(1) Each district school board shall give written notice of the renewal or nonrenewal of the contract for the following school year by March 15 of each year to all teachers and administrators in its employ who are not contract teachers as defined in ORS 342.815. In case the district school board does not renew the contract, the material reason therefor shall, at the request of the teacher or administrator, be included in the records of the school district, and the board shall furnish a statement of the reason for nonrenewal to the teacher or administrator. If any district school board fails to give such notice by March 15, the contract shall be considered renewed for the following school year at a salary not less than that being received at the time of renewal. The teacher or administrator may bring an action of mandamus to compel the district school board to issue such a contract for the following school year.

(2) This section is not effective unless teachers or administrators notify the board in writing on or before April 15 of acceptance or rejection of the position for the following school year. [Formerly 342.635; 1975 c.770 §47; 1979 c.714 §1; 1997 c.864 §24; 2005 c.22 §236]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **342.895 Contract teachers; procedure for dismissal or contract nonextension; appeal.**

(1) Contract teachers shall be employed by a school district pursuant to two-year employment contracts.

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

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

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

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

(b) If the district school board does not extend a contract teacher's contract by March 15 of the first year of the contract, the district superintendent, or the superintendent's designee, shall place the teacher on a program of assistance for improvement. The district superintendent or the superintendent's designee may, in addition, place any other teacher on a program of assistance for improvement if in the judgment of the district superintendent or designee a program of assistance for improvement is needed.

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

(5) Notwithstanding ORS 243.650 to 243.782 or the provisions of any collective bargaining agreement entered into after August 15, 1997, no grievance or other claim of violation of applicable evaluation procedures, or fundamental unfairness in a program of assistance for improvement, shall be filed while a teacher is on a program of assistance. All statutes of limitation and grievance timelines shall be tolled while the subject claims are held in abeyance under this moratorium provision. Except as provided in this subsection, the moratorium and tolling period ends on the date the program of assistance for improvement is completed, not to exceed one year, after which any claims subject to this provision may be pursued as otherwise provided by law or contract. In the case of a contract teacher who does not receive contract extension by March 15 of the first year of the teacher's contract, the moratorium period shall last until the teacher receives notice of contract extension or nonextension and no later than March 15 of the following school year, or until the teacher receives notice of dismissal.

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A contract teacher who is dismissed or receives notice of contract nonextension, and who appeals to the Fair Dismissal Appeals Board, may raise any claims subject to this moratorium provision before the Fair Dismissal Appeals Board, which shall have jurisdiction to decide such claims. If the teacher does raise claims covered by this moratorium provision in an appeal to the Fair Dismissal Appeals Board, such appeal shall be the teacher's sole and exclusive remedy. If a contract teacher does not appeal a contract nonextension or dismissal to the Fair Dismissal Appeals Board but instead pursues contract grievances to arbitration alleging a violation of evaluation procedures or fundamental unfairness in a program of assistance for improvement, the arbitrator shall not have authority to award reinstatement of the contract teacher, but may award other remedies including but not limited to back pay, front pay, compensatory damages and such further relief as the arbitrator deems appropriate. A program of assistance for improvement shall not be technically construed, and no alleged error or unfairness in a program of assistance shall cause the overturning of a dismissal, nonextension of contract, nonrenewal of contract or other disciplinary actions unless the contract teacher suffered a substantial and prejudicial impairment in the teacher's ability to comply with school district standards.

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