

# Statutes

## **CIVIL SERVICE FOR CUSTODIANS IN SCHOOL DISTRICTS OF 300,000 OR MORE**

**242.310 Short title.** ORS 242.310 to 242.640 and 242.990 (1) shall be known as the Custodians' Civil Service Law.

**242.320 Definitions for ORS 242.310 to 242.640.** As used in ORS 242.310 to 242.640, unless the context requires otherwise:

- (1) "Assistant custodian" means any employee who works under the supervision of a custodian except those who:
  - (a) Work less than eight hours per day; or
  - (b) Work less than 12 months per year; or
  - (c) Receive an hourly rate of pay.
- (2) "Board" means a civil service board created pursuant to ORS 242.330.
- (3) "Custodian" means an employee of the school district who has supervision of property, keeping it in sanitary condition and tending to the cleaning and operation of heating plants and other necessary work by way of care and labor to keep the physical plants of the school board in maintenance and operation. [Amended by 1969 c.262 §1]

### **242.330 Civil service board.**

- (1) In all school districts having a population of 300,000 or more persons according to the last federal census, there is created a civil service board with jurisdiction over the appointment, employment, classification and discharge of custodians and assistant custodians in the employ of the school district.
- (2) The board shall be composed of three commissioners. An alternate for each commissioner may be appointed to serve in the commissioner's absence. The commissioners and alternates shall be appointed by the school board of the district. [Amended by 1969 c.262 §2; 1975 c.770 §42; 1979 c.738 §1]

**242.340 Qualifications of commissioners.** To be eligible for appointment to the board, a commissioner shall:

- (1) Be an elector of the school district.
- (2) Be a resident of the school district for at least five years immediately preceding appointment.
- (3) Be known to be devoted to the principles of civil service.
- (4) Not be a member or employee of the school board.

### **242.350 Terms and compensation of commissioners.**

- (1) Initial appointments of the commissioners shall be as follows: One for two years, one for four years and one for six years. Thereafter each appointment shall be for a term of six years.
- (2) The commissioners shall serve without compensation.

### **242.360 Removal and vacancies.**

- (1) The school board may remove any commissioner for just cause at any time.
- (2) In the event of removal or of a vacancy caused by death or resignation, the vacancy shall be

filled by the school board within 10 days from the time of the vacancy. Such appointment shall be for the unexpired term of the commissioner whose place is vacated.

**242.370 Secretary; duties; salary.** The civil service board shall appoint a secretary, who shall keep a record of its proceedings, preserve all reports made to it, superintend and keep a record of all examinations held under its direction and perform such other duties as it may prescribe. The secretary shall hold office during the pleasure of the board, and shall receive a salary of not less than \$50 per month, to be paid by the school district.

**242.380 Offices and clerical help.** The school board shall provide the civil service board with suitable and convenient rooms and accommodations and cause the same to be furnished, heated, lighted and supplied with all office supplies and equipment necessary to carry on the business of the board. The school board also shall provide the civil service board with such other clerical assistance as may be necessary.

**242.390 Rules.** The civil service board may make appropriate rules and regulations to carry out the provisions of the Custodians' Civil Service Law. The rules shall provide in detail the manner in which examinations are to be held and appointments and removals made. The board may, from time to time, change its rules. Any rules or regulations shall be printed for distribution by the board, and 10 days' notice of same must be given by publication in a daily newspaper printed in the district not less than 10 days before the rules or regulations go into effect.

**242.400 Annual report; roster of employees.** The board shall, on or before January 1 of each year, make a report to the school board of the district, showing its rules in force and the practical effect thereof, and any suggestions it may have for a more effective accomplishment of classified civil service. The board shall also provide a roster for all employees under the Custodians' Civil Service Law and make such other reports and recommendations as it deems advisable.

**242.410 Records preserved; open to public.** The board shall keep on file all examination papers and markings thereof for a period of at least five years and all other papers and documents and communications received by it. All records shall be public and, as such, accessible at convenient times.

**242.420 Investigations; oaths; subpoenas; examination of books, papers and records.** The board may make any appropriate investigation to carry out the purposes of the Custodians' Civil Service Law. In connection therewith, any member of the board may administer oaths, issue subpoenas to witnesses and compel their attendance at examinations, and examine books, papers and records and compel their production by witnesses in the same manner as if the subpoenas had been issued from a court of record in this state.

**242.510 Classified service.** The civil service board shall classify, with relation to the character of work and the compensation attached thereto, all positions in the service of the school board within the district including those under the supervision of a custodian except those described in ORS 242.320 (1)(a), (b) or (c). The positions so classified shall constitute the classified civil service of the school district. [Amended by 1979 c.738 §2]

**242.520 Merit system to be observed.**

(1) No appointment or promotion to any position shall be made except as provided in the Custodians' Civil Service Law. All appointments to beginning employment positions in the classified civil service shall be made according to fitness, to be ascertained by open competitive examinations. All promotions in the classified civil service shall be made according to merit in service, fidelity in service and seniority in service.

(2) No person shall be appointed or employed by a school board under any title not appropriate to the duties to be performed.

(3) The appointing authority shall immediately notify the board of any appointment or discharge. [Amended by 1969 c.262 §3]

**242.530 Competitive examinations; examiners.** The board shall, from time to time, hold public competitive examinations to ascertain the fitness of applicants for beginning employment positions of the classified civil service. The board shall control those examinations and may designate any person to act as examiner without compensation. [Amended by 1969 c.262 §4]

**242.540 Character of examinations.** Examinations shall be practical in character and relate only to those matters which test the relative fitness of the persons examined to discharge the duties for the respective positions for which they are applicants. The examinations shall include a test for physical qualifications, health and manual or professional skill. Nothing relating to an applicant's political or religious opinion or affiliation shall be asked or given.

**242.550 Fitness for appointment; board approval.** The civil service board may require an applicant for a custodial position to furnish evidence satisfactory to the board of good character, mental and physical health, and such other evidence as it may deem necessary to establish the applicant's fitness, including any information concerning a criminal conviction for a crime involving the possession, use, sale or distribution of a controlled substance, sexual misconduct listed in ORS 342.143 (3), theft or a crime of violence. The board shall not approve the employment of any applicant unless the board is satisfied that the applicant poses no danger to school children. [Amended by 1969 c.262 §5; 1979 c.738 §3; 1979 c.744 §11]

**242.560 Register of eligible candidates; ranking; rules.**

(1) The board shall prepare and keep a register for each grade or class of positions of the persons whose average standing, upon examination for such grade or class, is not less than the minimum fixed by the rules of the board, and who otherwise are eligible. Such persons shall take rank upon the register as candidates for beginning employment positions in order of their relative excellence, as determined by the examination. Candidates of equal standing shall take rank upon the register according to the order in which their applications are filed. The board may, by rule, provide for striking candidates from the register, after they have remained thereon for a specified time.

(2) The board shall prepare and keep a register for each grade or class of positions of the persons eligible for promotion. Such register shall contain information concerning merit in service, fidelity in service and seniority in service. Such persons shall take rank upon the register as candidates for promotion in order of their relative excellence, as determined by merit in service, fidelity in service and seniority in service. Candidates of equal standing shall take rank upon the register according to the order in which their applications are filed. [Amended by 1969 c.262 §6]

**242.570 Certification of candidates for vacancies; rules.**

(1) Whenever there is a vacancy in any position in the classified civil service, the school board, or its designated representative, immediately shall notify the civil service board thereof.

(2) The civil service board thereupon shall certify to the appointing authority the names and addresses of the three eligible candidates standing highest upon the register for the class or grade to which such position belongs. If there are fewer than three, the board shall certify all remaining candidates upon the register. When vacancies exist in two or more positions of the same class in the same department at the same time, the board may certify a smaller number than three candidates for each position, but those certified must be eligible candidates standing highest upon the register.

(3) The board may, by rule, limit the number of times the same candidate is certified to the appointing authorities.

(4) The appointing authority may require the candidates certified to come before the appointing authority for interview. When the candidates are applicants for beginning employment, the appointing authority shall be entitled to inspect their examination papers. [Amended by 1969 c.262 §7; 2005 c.22 §184]

**242.580 Probation.** Each person appointed to a vacant position shall be on probation for a period of one year from the date of hire. Within that time the person may be discharged and another candidate appointed in like manner. [Amended by 1979 c.738 §4]

**242.590 Permanent appointments.**

(1) The appointing authority must make a permanent appointment from the list of candidates certified by the board, unless, upon reasons signed in writing by the appointing authority, the board consents to and certifies a new list of candidates. If a person on probation is not dismissed during the probationary period the appointment is deemed permanent.

(2) All persons employed as custodians and assistant custodians in a school district on the date the Custodians' Civil Service Law becomes effective as to such school district shall be permanent employees without examination and shall be so appointed by the board.

**242.600 Emergency appointments.** In cases of emergency, to prevent delay or injury to the property of the school district or of the public business, the appointing authority may fill any position temporarily but not for longer than 30 days.

**242.610 Suspension; reappointment.** Any appointing authority of the school district may suspend any person within the classified service for any cause for a period of not exceeding 30 days. If any employee in the classified service is suspended by reason of the closing of a school or lack of work to be done, the employee again shall be placed on the eligible list of the civil service board and shall have the first preference in the filling of any vacancy and shall be appointed according to seniority. If the school board opens any closed school, the employees employed in the building shall have first preference to their previous place of appointment.

**242.620 Dismissal.** No employee in the classified civil service who has been permanently appointed, shall be dismissed except for cause. A written statement of the cause of dismissal, in general terms, shall be served upon the dismissed employee and a duplicate filed with the board.

A dismissal may be made without any hearing but any employee so removed may, within 10 days thereafter, file with the board a written demand for investigation. If the demand alleges, or it otherwise appears to the board, that the discharge or removal was for political or religious reasons, or for reasons of age as described in ORS chapter 659A, or was because of personal favoritism or was not in good faith nor for the purpose of improving the public service, an investigation shall be held by the board or by persons appointed by them and under their direction. [Amended by 1959 c.689 §11; 1977 c.770 §10; 2001 c.621 §75]

**242.630 Investigation; findings; appeal.**

(1) The investigation pursuant to ORS 242.620 shall be confined to determining whether the dismissal was or was not for political or religious reasons, or because of reasons of age as described in ORS chapter 659A, or was not made in good faith for the purpose of improving public service.

(2) If the board finds that the employee is entitled to reinstatement, it shall report its findings in writing to the school board, whereupon the employee shall be reinstated.

(3) If the board finds that the employee was properly discharged, the employee shall have a right of appeal from the board's decision to the circuit court for the county in which the district lies. Appeals shall be perfected by service of notice of appeal upon the secretaries of the civil service board and school board, together with a copy of the decision of the civil service board certified to be a correct copy by the secretary thereof, whereupon the same shall be filed with the clerk of the court. [Amended by 1959 c.689 §12; 1977 c.400 §3; 1977 c.770 §11; 1993 c.778 §26; 2001 c.621 §76]

**242.635 Board approval necessary for eligibility after dismissal; requirements for approval.**

An employee in the classified civil service who has been duly dismissed for cause shall not be eligible for examination for appointment without the approval of the civil service board.

Approval shall not be granted unless the board on evidence presented by applicant finds that the condition resulting in dismissal has been corrected and is unlikely to recur. [1979 c.738 §6]

**242.640 Prohibited conduct.** No person shall:

(1) Willfully or corruptly or in cooperation with one or more persons, defeat, deceive or obstruct any person with respect to the right of the individual to examination or registration according to the regulations prescribed by the civil service board pursuant to the Custodians' Civil Service Law.

(2) Willfully or corruptly falsely mark, grade, estimate or report on an examination the proper standing of any person examined, registered or certified according to any regulation prescribed pursuant to the Custodians' Civil Service Law, or aid in so doing.

(3) Willfully or corruptly make any false representations concerning the examination, certification and registration or concerning the persons examined, registered or certified.

(4) Willfully or corruptly furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined, registered or certified, or to be examined, registered or certified.

(5) Permit any other person or permit or aid in any other manner, any other person to impersonate the individual in connection with any examination, registration or application, or request to be examined or registered.

(6) Make an appointment to any position contrary to the Custodians' Civil Service Law, or refuse or neglect to comply therewith.

The District is committed to equal opportunity and nondiscrimination in all its educational and employment activities. The District prohibits discrimination based on