



OREGON PUBLIC CHARTER SCHOOL LAW ANNOTATED

*As amended through the end of the 2005 regular legislative session
4.12.06*

This annotated compilation of charter school laws is prepared to assist the reader to quickly identify Oregon’s charter school laws. The statutes included herein constitute the core of Oregon’s charter school laws. Though the author has made extensive efforts to identify the most recent statutory text available, current through the end of the 2003 regular legislative session, she assumes no liability for any errors or omissions. This compilation should not be regarded as legal counsel. Unless specified otherwise, any annotations or notes are not part of the actual statutes and were added by the author to aid the reader.

Oregon Revised Statute Chapter 338 — PUBLIC CHARTER SCHOOLS (2005 EDITION)

Definitions

338.005

Applicant.

- (1) “Applicant” means any person or group that develops and submits a written proposal for a public charter school to a sponsor.

Public charter school.

- (2) “Public charter school” means an elementary or secondary school offering a comprehensive instructional program operating under a written agreement entered into between a sponsor and an applicant and operating pursuant to this chapter.

Sponsor.

- (3) “Sponsor” means:
 - (a) The board of the common school district or the union high school district in which the public charter school is located that has developed a written charter with an applicant to create a public charter school.
 - (b) The State Board of Education pursuant to ORS 338.075.

(Note: The State Board of Education may sponsor a charter school only through an appeals process.)

Legislative intent

338.015. It is the intent of this chapter that new types of schools, called public charter schools, be created as a legitimate avenue for parents, educators and community members to take responsible risks to create new, innovative and more flexible ways of educating children within the public school system. The Legislative Assembly seeks to create an atmosphere in Oregon’s public school system where research and

development of new learning opportunities are actively pursued. The provisions of this chapter should be interpreted liberally to support the goals of this section and to advance a renewed commitment by this state to the mission, goals and diversity of public education. It is the intent that public charter schools may serve as models and catalysts for the improvement of other public schools and the public school system. The goals of public charter schools shall be to:

Goals

- (1) Increase student learning and achievement;
- (2) Increase choices of learning opportunities for students;
- (3) Better meet individual student academic needs and interests;
- (4) Build stronger working relationships among educators, parents and other community members;
- (5) Encourage the use of different and innovative learning methods;
- (6) Provide opportunities in small learning environments for flexibility and innovation, which may be applied, if proven effective, to other public schools;
- (7) Create new professional opportunities for teachers;
- (8) Establish additional forms of accountability for schools; and
- (9) Create innovative measurement tools. [1999 c.200 §1]

Rules

338.025.

- (1) The State Board of Education may adopt any rules necessary for the implementation of this chapter. The rules shall follow the intent of this chapter.

Waivers and exceptions

- (2) Upon application by a public charter school, the State Board of Education may grant a waiver of any provision of this chapter if the waiver promotes the development of programs by providers, enhances the equitable access by underserved families to the public education of their choice, extends the equitable access to public support by all students or permits high quality programs of unusual cost. The State Board of Education may not waive any appeal provision in this chapter or any provision under ORS 338.115 (1)(a) to (o).

Establishment of charter schools

338.035.

- (1) A public charter school may be established:
 - (a) As a new public school;
 - (b) From an existing public school or a portion of the school; or
 - (c) From an existing alternative education program, as defined in ORS 336.615.
- (2) (a) Before a public charter school may operate as a public charter school, it must:
 - (A) Be approved by a sponsor;
 - (B) Be established as a nonprofit organization under the laws of Oregon; and
 - (C) Have applied to qualify as an exempt organization under section 501(c)(3) of the Internal Revenue Code.
- (b) Notwithstanding paragraph (a) of this subsection, the requirements of paragraph (a)(B) and (C) of this subsection do not apply to a public charter school that is operated by a school district.

Note: While these statutes do not require district-operated charter schools to apply for either state (Oregon) or federal—501(c)(3)—nonprofit status, the Oregon Department of Education has denied federal charter school incentive grant funding charter schools who do not have a legal status separate from the school district with its own board of directors that is separate from the school district board.

Proposal submission timeline

- (3) An applicant seeking to establish a public charter school shall submit a proposal pursuant to ORS 338.045 to the school district board of the school district within which the public charter school will be located at least 120 days prior to the date upon which the public charter school would begin operating. However, it is recommended that an applicant consult with the school district board prior to submitting a proposal.

Copy of proposal to State Board of Education / Oregon Department of Education

- (4) An applicant seeking to establish a public charter school shall provide to the State Board of Education a copy of any proposal submitted to a school district board under ORS 338.045 and a copy of any subsequent approval by the school district board.

Conversion of all public schools in one district prohibited

- (5) All schools in a school district shall not become public charter schools.

Conversion of a district comprised of one school permitted

- (5 – con't) However, a school in a school district that is composed of only one school may become a public charter school.

Conversion of private schools prohibited

- (6) (a) A school district board or the State Board of Education may not approve a public charter school proposal that authorizes the conversion of any private school that is tuition based to a public charter school.

Alternative program/school conversions permitted

- (b) Notwithstanding paragraph (a) of this subsection, a school district board or the State Board of Education may authorize the conversion of an existing alternative education program, as defined in ORS 336.615, to a public charter school.

Sectarian and religion-affiliated schools prohibited

- (7) A school district board or the State Board of Education may not approve a public charter school proposal that is affiliated with a nonpublic sectarian school or a religious institution.

Proposal requirements

338.045

- (1) An applicant seeking to establish a public charter school shall submit a written proposal to a school district board.
- (2) The proposal shall include, but need not be limited to:
 - (a) The identification of the applicant;
 - (b) The name of the proposed public charter school;
 - (c) A description of the philosophy and mission of the public charter school;
 - (d) A description of the curriculum of the public charter school;
 - (e) A description of the expected results of the curriculum and the verified methods of measuring and reporting objective results that will show the growth of knowledge of students attending the public charter school and allow comparisons with public schools;
 - (f) The governance structure of the public charter school;
 - (g) The projected enrollment to be maintained and the ages or grades to be served;
 - (h) The target population of students the public charter school will be designed to serve;
 - (i) A description of any distinctive learning or teaching techniques to be used in the public charter school;
 - (j) The legal address, facilities and physical location of the public charter school, if known;
 - (k) A description of admission policies and application procedures;
 - (l) The statutes and rules that shall apply to the public charter school;
 - (m) The proposed budget and financial plan for the public charter school and evidence that the

- proposed budget and financial plan for the public charter school are financially sound;
- (n) The standards for behavior and the procedures for the discipline, suspension or expulsion of students;
 - (o) The proposed school calendar for the public charter school, including the length of the school day and school year;
 - (p) A description of the proposed staff members and required qualifications of teachers at the public charter school;
 - (q) The date upon which the public charter school would begin operating;
 - (r) The arrangements for any necessary special education and related services provided pursuant to ORS 338.165 for children with disabilities who may attend the public charter school;
 - (s) Information on the manner in which community groups may be involved in the planning and development process of the public charter school;
 - (t) The term of the charter;
 - (u) The plan for performance bonding or insuring the public charter school, including buildings and liabilities;
 - (v) A proposed plan for the placement of public charter school teachers, other school employees and students of the public charter school upon termination or nonrenewal of a charter;
 - (w) The manner in which the program review and fiscal audit will be conducted; and
 - (x) In the case of an existing public school being converted to charter status:
 - (A) The alternative arrangements for students who choose not to attend the public charter school and for teachers and other school employees who choose not to participate in the public charter school; and
 - (B) The relationship that will exist between the public charter school and its employees, including evidence that the terms and conditions of employment have been addressed with affected employees and their recognized representative, if any.
- (3) In addition to the requirements of subsection (2) of this section, the school district board may require any additional information the board considers relevant to the formation or operation of a public charter school.

Technical assistance by potential sponsor

- (4) At the request of the applicant, the school district board may provide technical assistance in developing the proposal for operation of the public charter school.

Buildings

- (5) To the extent such information is reasonably available, education service districts shall make available to the public lists of vacant and unused public and private buildings or portions of buildings that may be suitable for the operation of a public charter school. School districts shall provide to the public and to their education service districts lists of unused or underutilized buildings that are owned by the school districts. Nothing in this subsection requires the owner of a building on the list to sell or lease to a public charter school a building or any portion of a building.

Proposal approval process

338.055

Public hearing

- (1) Within 60 days of receipt of a proposal submitted under ORS 338.045, the school district board shall hold a public hearing on the provisions of the proposal.

Evaluation criteria for proposal

- (2) The school district board shall evaluate a proposal in good faith using the following criteria:
- (a) The demonstrated, sustainable support for the public charter school by teachers, parents, students and other community members, including comments received at the public hearing held under subsection (1) of this section;
 - (b) The demonstrated financial stability of the public charter school;

- (c) The capability of the applicant, in terms of support and planning, to provide comprehensive instructional programs to students pursuant to an approved proposal;
- (d) The capability of the applicant, in terms of support and planning, to specifically provide, pursuant to an approved proposal, comprehensive instructional programs to students identified by the applicant as academically low achieving;
- (e) The extent to which the proposal addresses the information required in ORS 338.045;
- (f) Whether the value of the public charter school is outweighed by any directly identifiable, significant and adverse impact on the quality of the public education of students residing in the school district in which the public charter school will be located;

Note: "Adverse impact" has been and continues to be a heavily-debated and undefined concept.

- (g) Whether there are arrangements for any necessary special education and related services for children with disabilities pursuant to ORS 338.165; and
- (h) Whether there are alternative arrangements for students and for teachers and other school employees who choose not to attend or who choose not to be employed by the public charter school.

Notice of district decision

- (3) The school district board must approve a proposal or state in writing the reasons for disapproving a proposal within 30 days after the public hearing held under subsection (1) of this section.

Appeals process in case of district denial

- (4) Written notice of the school district board's action shall be sent to the applicant. If the proposal is not approved, the reasons for the denial and suggested remedial measures, if any, shall be clearly stated in the notice sent by the school district board to the applicant. If the proposal is not approved, the applicant may amend the proposal to address objections and any suggested remedial measures and resubmit the proposal to the school district board. The school district board shall approve or disapprove the resubmitted proposal within 20 days after receiving it. If the proposal is not approved, the applicant may appeal the decision of the school district board to the State Board of Education.

Note: See ORS 338.075 (below) for detailed appeals process.

- (5) Individual elements in a public charter school proposal may be changed through the application and chartering process.
- (6) A proposal to convert an existing public school to a public charter school must be approved by the school district board of the public school.

Fees for applicants prohibited

- (7) The school district board or the State Board of Education shall not charge any fee to applicants for the application process.
- (8) Upon request by a school district, the State Board of Education may grant an extension of any timeline required by this section if the district has good cause for requesting the extension. [1999 c.200 §7]

Development of charter

338.065

- (1) Upon approval of a proposal by a school district board under ORS 338.055, the school district board shall become the sponsor of the public charter school. The sponsor and applicant shall develop a written charter that contains the provisions of the proposal that have been duly approved by the sponsor and public charter school governing body. The sponsor and the applicant may agree to change elements of the proposal prior to incorporating them into the charter or exclude elements of the proposal from the charter. The charter, when duly executed by the sponsor and the public charter school governing body, shall act as the legal authorization for the establishment of the public charter school. The charter shall be legally

binding on both the sponsor and the public charter school governing body.

Amendments to charter

(2) The sponsor and the public charter school governing body may amend a charter by joint agreement.

Charter length and renewal

(3)(a) The initial charter shall be in effect for a period of not more than five years and shall be renewed upon the authorization of the sponsor using the process established under this section.

Term-length of renewed charters

(3)(b) The first renewal of a charter shall be for the same time period as the initial charter.

(c) Subsequent renewals of a charter shall be for a minimum of five years but may not exceed 10 years.

Renewal process and timelines

(4)(a) The renewal of a charter shall use the process required by this section.

(b) The public charter school governing body shall submit a written renewal request to the sponsor for consideration at least 180 days prior to the expiration of the charter.

(c) Within 45 days after receiving a written renewal request from a public charter school governing body, the sponsor shall hold a public hearing regarding the request for renewal.

(d) Within 10 days after the public hearing, the sponsor shall notify the public charter school governing body of the sponsor's intent about the renewal of the charter.

(e) Within 20 days after the public hearing, the sponsor shall approve the renewal of the charter or state in writing the reasons for denying the renewal of the charter.

Negotiation of new charter contract

(f) If the sponsor approves the renewal of the charter, the sponsor and the public charter school governing body shall negotiate a new charter within 90 days after the date on which the sponsor approved the renewal of the charter unless the sponsor and the public charter school governing body agree to an extension of the time period.

Resubmission option

(g) If the sponsor does not renew the charter, the public charter school governing body *may* address the reasons stated under paragraph (e) of this subsection and any remedial measures suggested by the sponsor and submit a revised request for renewal to the sponsor.

Charter contract renewal timelines supersedes statutory timeline

(h) Notwithstanding paragraphs (b) to (g) of this subsection, a sponsor and a public charter school governing body may agree in the charter of the school to a timeline for renewing the charter that is different from the timeline required by paragraphs (b) to (g) of this subsection.

Appeals process

(5)(a) If the sponsor does not renew the charter based on the revised request for renewal submitted under subsection (4)(g) of this section, the public charter school governing body may appeal the decision of the sponsor to the State Board of Education for a review of whether the sponsor used the process required by this section in denying the renewal of the charter.

Note: Statute does not include timeline for State Board of Education appeal review; OARs should contain this provision, per ODE draft (April, 2006).

(b) If the board finds that the sponsor used the process required by this section in denying the request for renewal, the board shall affirm the decision of the sponsor. A public charter school governing body may seek judicial review of an order of the board pursuant to ORS 183.484.

(c) If the board finds that the sponsor did not use the process required by this section in denying the request for renewal, the board shall order the sponsor to reconsider the request for renewal.

(d) If after reconsideration pursuant to paragraph (c) of this subsection the sponsor does not renew the charter, the public charter school governing body may seek judicial review of an order of the sponsor pursuant to ORS 183.484.

(e) If the board is the sponsor of a public charter school and the board does not renew the charter based on the revised request for renewal submitted under subsection (4)(g) of this section, the public charter school governing body may seek judicial review of an order of the board pursuant to ORS 183.484 for a review of whether the board used the process required by this section in denying the request for renewal.

Criteria that sponsor must use as basis for renewal decision

(6)(a) The sponsor shall base the charter renewal decision on a good faith evaluation of whether the public charter school:

(A) Is in compliance with this chapter and all other applicable state and federal laws;

(B) Is in compliance with the charter of the public charter school;

(C) Is meeting or working toward meeting the student performance goals and agreements specified in the charter or any other written agreements between the sponsor and the public charter school governing body;

(D) Is fiscally stable; and

(E) Is in compliance with any renewal criteria specified in the charter of the public charter school.

(b) The sponsor shall base the renewal evaluation described in paragraph (a) of this subsection primarily on a review of the public charter school's annual performance reports, annual audit of accounts and annual site visit and review as required by ORS 338.095 and any other information mutually agreed upon by the public charter school governing body and the sponsor. [1999 c.200 §8; 2005 c.522 §1]

Appeals process

338.075

State review of school district board decision

(1) If a school district board does not approve a proposal to start a public charter school pursuant to ORS 338.055, the applicant may request that the State Board of Education review the decision of the school district board.

State will mediate, recommend charter revisions or opt to sponsor

(2) Upon receipt of a request for review, the State Board of Education:

(a) Shall attempt to mediate a resolution between the applicant and the school district board.

(b) May recommend to the applicant and school district board revisions to the application.

(c) If the school district board does not accept the revisions to the application and the applicant agrees to the sponsorship, may become the sponsor of the public charter school.

State denial of sponsorship

(3) Upon receipt of a request for review, in addition to actions described in subsection (2) of this section and at any time during the review process, the State Board of Education may reject a proposal to start a public charter school if the school fails to meet the requirements of this chapter.

Appeal to the courts

(4) An applicant may seek judicial review of an order of the State Board of Education pursuant to ORS 183.484. If the court finds that the decision of the State Board of Education is not supported by substantial evidence in the record, the court shall enter a judgment directing the State Board of Education to sponsor the public charter school.

OPERATION

Annual report and site visit required

338.095

(1) A public charter school shall report to the sponsor and the State Board of Education at least annually on the performance of the school and its students. A public charter school shall disclose in its report

information necessary to make a determination of compliance with the requirements of this chapter. The sponsor or the sponsor's designee at least annually shall visit the public charter school site and review the public charter school's compliance with the terms and provisions of the charter.

Note: The law vaguely stipulates the information to be included in a charter school's annual report. Charter sponsors and operators may wish to agree—within a charter agreement/contract—as to what will constitute information related to the “performance of the school and its students” and information “necessary to make a determination of compliance with the requirements of this chapter”

Annual fiscal audit required

(2) The public charter school shall have an annual audit of the accounts of the public charter school prepared in accordance with the Municipal Audit Law, ORS 297.405 to 297.555 and 297.990. The annual audit shall be forwarded to the sponsor, the State Board of Education and the Department of Education.

Oregon Report Card data

(3) The State Board of Education may require public charter schools to file reports with the Department of Education as necessary to enable the department to gather information on public charter schools for inclusion in the Oregon Report Card issued pursuant to ORS 329.115. [1999 c.200 §10]

Criteria for charter termination

338.105

(1) During the term of a charter, the sponsor may terminate the charter on any of the following grounds:

- (a) Failure to meet the terms of an approved charter or this chapter.
- (b) Failure to meet the requirements for student performance stated in the charter.
- (c) Failure to correct a violation of a federal or state law that is described in ORS 338.115.
- (d) Failure to maintain insurance as described in the charter.
- (e) Failure to maintain financial stability.

Notification of charter termination based on five revocation criteria

(2) If a charter is terminated under subsection (1) of this section, the sponsor shall notify the public charter school governing body at least 60 days prior to the proposed effective date of the termination. The notice shall state the grounds for the termination. The public charter school governing body may request a hearing by the sponsor.

Appeal of charter termination based on revocation criteria

(3) A public charter school governing body may appeal any decision of a sponsor that is:

- (a) A school district board to the State Board of Education. The State Board of Education shall adopt by rule procedures to ensure a timely appeals process to prevent disruption of students' education.
- (b) The State Board of Education to the circuit court pursuant to ORS 183.484.

Charter termination due to health and safety: process

(4) (a) Notwithstanding subsection (2) of this section, a sponsor may terminate a charter immediately and close a public charter school if the public charter school is endangering the health or safety of the students enrolled in the public charter school.

- (b) The public charter school governing body may request a hearing from the sponsor on the termination of the charter under this subsection. The sponsor shall hold a hearing within 10 days after receiving the request.
- (c) The public charter school governing body may appeal a decision of a sponsor under this subsection to the State Board of Education. The State Board of Education shall hold a hearing within 10 days after receiving the appeal request.
- (d) Throughout the appeals process, the public charter school shall remain closed at the discretion of the sponsor unless the State Board of Education orders the sponsor to open the public charter school and not terminate the charter.

Charter termination does not always mean school closure

- (5) Termination of a charter shall not abridge the public charter school's legal authority to operate as a private or nonchartered public school.

Asset distribution in the event of school closure

- (6) If a charter is terminated or a public charter school is dissolved, the assets of the public charter school that were purchased with public funds shall be given to the State Board of Education. The State Board of Education may disburse the assets of the public charter school to school districts or other public charter schools.

Charter school closure or dissolution timing

- (7) A public charter school governing body may only terminate a charter, dissolve or close a public charter school at the end of a semester. If a charter is terminated by the public charter school governing body or a public charter school is closed or dissolved, the public charter school governing body shall notify the sponsor at least 180 days prior to the proposed effective date of the termination, closure or dissolution.

Applicability of laws

338.115

- (1) Statutes and rules that apply to school district boards, school districts or other public schools shall not apply to public charter schools. However, the following laws shall apply to public charter schools:

- (a) Federal law;
- (b) ORS 192.410 to 192.505 (public records law);
- (c) ORS 192.610 to 192.690 (public meetings law);
- (d) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);
- (e) ORS 181.539, 326.603, 326.607 and 342.232 (criminal records checks);
- (f) ORS 337.150 (textbooks);
- (g) ORS 339.141, 339.147 and 339.155 (tuition and fees);
- (h) ORS 659.850 and 659.855 (discrimination);
- (i) ORS 30.260 to 30.300 (tort claims);
- (j) Health and safety statutes and rules;
- (k) Any statute or rule that is listed in the charter;
- (l) The statewide assessment system developed by the Department of Education for mathematics, science and English under ORS 329.485 (1);
- (m) ORS 329.045 (academic content standards and instruction);
- (n) Any statute or rule that establishes requirements for instructional time provided by a school during each day or during a year;
- (o) ORS 339.250 (12) (prohibition on infliction of corporal punishment); and
- (p) ORS 339.370, 339.372 and 339.375 (reporting of child abuse); and
- (q) This chapter.

Charter may stipulate additional rules and statutes

- (2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules that apply to school district boards, school districts and other public schools may apply to a public charter school.

Applicability of (other) Oregon statutes and rules to charter schools

- (3) If a statute or rule applies to a public charter school, then the terms "school district" and "public school" shall include public charter school as those terms are used in that statute or rule.

Charter schools must be nonsectarian

- (4) A public charter school shall not violate the Establishment Clause of the First Amendment to the United States Constitution or section 5, Article I of the Oregon Constitution, or be religion based.

Note: The Establishment Clause of the First Amendment to the United States Constitution is, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.” The Oregon Constitution, section 5, states that, “No money shall be drawn from the Treasury for the benefit of any religious or theological institution...”

Minimum enrollment

(5) A public charter school shall maintain an active enrollment of at least 25 students.

Ability to sue and be sued

(6) A public charter school may sue or be sued as a separate legal entity.

Sponsor immunity to civil liability

(7) The sponsor, members of the governing board of the sponsor acting in their official capacity and employees of a sponsor acting in their official capacity are immune from civil liability with respect to all activities related to a public charter school within the scope of their duties or employment.

Charter school powers to enter into contracts

(8) A public charter school may enter into contracts and may lease facilities and services from a school district, education service district, state institution of higher education, other governmental unit or any person or legal entity.

Prohibition on bonds and levies

(9) A public charter school may not levy taxes or issue bonds under which the public incurs liability.

Ability to receive gifts, grants and donations

(10) A public charter school may receive and accept gifts, grants and donations from any source for expenditure to carry out the lawful functions of the school.

Student diplomas, certificates and endorsements

(11) The school district in which the public charter school is located shall offer a high school diploma, certificate, Certificate of Initial Mastery or Certificate of Advanced Mastery to any public charter school student who meets the district’s and state’s standards for a high school diploma, certificate, Certificate of Initial Mastery or Certificate of Advanced Mastery. If the school district offers a Certificate of Initial Mastery subject area endorsement to students who attend school in the district, then the school district shall offer the endorsement to any public charter school student who meets the district’s and state’s standards for the endorsement.

(12) A high school diploma, certificate, Certificate of Initial Mastery, Certificate of Initial Mastery subject area endorsement or Certificate of Advanced Mastery issued by a public charter school shall grant to the holder the same rights and privileges as a high school diploma, certificate, Certificate of Initial Mastery, Certificate of Initial Mastery subject area endorsement or Certificate of Advanced Mastery issued by a nonchartered public school.

Insurance requirements and proof

(13) Prior to beginning operation, the public charter school shall show proof of insurance to the sponsor as specified in the charter.

Education Service District services

(14) A public charter school may receive services from an education service district in the same manner as a nonchartered public school in the school district in which the public charter school is located.

Student admissions: open enrollment and lottery

338.125

- (1) Student enrollment in a public charter school shall be voluntary. All students who reside within the school district where the public charter school is located are eligible for enrollment at a public charter school. If the number of applications from students who reside within the school district exceeds the capacity of a program, class, grade level or building, the public charter school shall select students through an equitable lottery selection process.

Admission priorities for existing students and their siblings

- (1 – con't) However, after a public charter school has been in operation for one or more years, the public charter school may give priority for admission to students:
 - (a) Who were enrolled in the school in the prior year; or
 - (b) Who have siblings who are presently enrolled in the school and who were enrolled in the school in the prior year.

Non-resident students

- (2)(a) If space is available a public charter school may admit students who do not reside in the school district in which the public charter school is located.

Residency requirement for schools offering *any* online courses

- (b) Notwithstanding paragraph (a) of this subsection, if a public charter school offers any online courses as part of the curriculum of the school, then 50 percent or more of the students who attend the public charter school must reside in the school district in which the public charter school is located.

Discrimination in admission prohibited

- (3) A public charter school may not limit student admission based on ethnicity, national origin, race, religion, disability, gender, income level, proficiency in the English language or athletic ability, but may limit admission to students within a given age group or grade level.

Fund-raising activities

- (4) A public charter school may conduct fund-raising activities. However, a public charter school shall not require a student to participate in fund-raising activities as a condition of admission to the public charter school.

Employees

338.135

Voluntary assignment of staff

- (1) Employee assignment to a public charter school shall be voluntary.

Employer: charter school or sponsor

- (2) A public charter school or the sponsor of the public charter school may be considered the employer of any employees of the public charter school. If a school district board is not the sponsor of the public charter school, the school district board shall not be the employer of the employees of the public charter school and the school district board may not collectively bargain with the employees of the public charter school. The public charter school governing body shall control the selection of employees at the public charter school.

Required leaves of absence for district employees

- (3) The school district board of the school district within which the public charter school is located shall grant a leave of absence to any employee who chooses to work in the public charter school. The length and terms of the leave of absence shall be set by negotiated agreement or by board policy. However, the length of the leave of absence may not be less than two years unless:
 - (a) The charter of the public charter school is terminated or the public charter school is dissolved or

closed during the leave of absence; or

- (b) The employee and the school district board have mutually agreed to a different length of time.
- (4) An employee of a public charter school operating within a school district who is granted a leave of absence from the school district and returns to employment with the school district shall retain seniority and benefits as an employee pursuant to the terms of the leave of absence. Notwithstanding ORS 243.650 to 243.782, a school district that was the employer of an employee of a public charter school not operating within the school district may make provisions for the return of the employee to employment with the school district.

Charter schools must participate in the Public Employee Retirement System (PERS)

- (5) For purposes of ORS chapters 238 and 238A, a public charter school shall be considered a public employer and as such shall participate in the Public Employees Retirement System.

Charter school experience equivalent to “public schools” teaching experience for licensing issues

- (6) For teacher licensing, employment experience in public charter schools shall be considered equivalent to experience in public schools.

Charter school administrator does not have to hold TSPC license

- (7) (a) Notwithstanding ORS 342.173, a public charter school may employ as an administrator a person who is not licensed by the Teacher Standards and Practices Commission.

Charter school teachers must be either licensed or registered with TSPC

- (b) Any person employed as a teacher in a public charter school shall be licensed or registered to teach by the Teacher Standards and Practices Commission.

A minimum of one-half of teaching and administrative FTE must be licensed by TSPC

- (c) Notwithstanding paragraph (a) or (b) of this subsection, at least one-half of the total full-time equivalent (FTE) teaching and administrative staff at the public charter school shall be licensed by the commission pursuant to ORS 342.135, 342.136, 342.138 or 342.140.

Collective bargaining

- (8) Notwithstanding ORS 243.650, a public charter school shall be considered a school district for purposes of ORS 243.650 to 243.782. An employee of a public charter school may be a member of a labor organization or organize with other employees to bargain collectively. Bargaining units at the public charter school may be separate from other bargaining units of the sponsor or of the school district in which the public charter school is located. Employees of a public charter school may be part of the bargaining units of the sponsor or of the school district in which the public charter school is located.

Waiving the right to sponsor charter school in collective bargaining agreement prohibited

- (9) A school district or the State Board of Education may not waive the right to sponsor a public charter school in a collective bargaining agreement.

Charter school must provide for student transportation services for resident students

338.145

- (1) The public charter school shall be responsible for providing transportation to students who reside within the school district and who attend the public charter school. The public charter school may negotiate with a school district for the provision of transportation to students attending the public charter school.

District must allow charter school students to use existing bus routes or otherwise provide transportation services for resident students

- (2) Notwithstanding subsection (1) of this section, the school district within which the public charter school is located shall be responsible for the transportation of students attending the public charter school pursuant to ORS 327.043 in the same manner as students attending nonchartered public

schools if the student is a resident of the school district. However, a school district may not be required to add or extend existing bus routes or other transportation services pursuant to this subsection.

- (3) Students who attend public charter schools and who reside outside of the school district may use existing bus routes and transportation services of the school district in which a public charter school is located.

Note: ORS 327.043 requires a school district to provide transportation for elementary students who reside more than one mile from school, for secondary school students who reside more than 1.5 miles from school, and for any student identified in a supplemental plan approved by the State Board of Education.

- (4) Any transportation costs incurred by a school district under this section shall be considered approved transportation costs for purposes of ORS 327.013 in the same manner as transportation costs incurred by the school district for transporting students who attend nonchartered public schools are considered approved transportation costs for purposes of ORS 327.013.

Note: ORS 327.013 (9)(a) delineates the state transportation grant, which equals:

- (A) 70 percent of approved transportation costs for those school districts ranked below the 80th percentile under paragraph (b) of this subsection.
- (B) 80 percent of approved transportation costs for those school districts ranked in or above the 80th percentile but below the 90th percentile under paragraph (b) of this subsection.
- (C) 90 percent of approved transportation costs for those school districts ranked in or above the 90th percentile under paragraph (b) of this subsection

These provisions seem contradictory in that both charter schools and districts are required to provide transportation. Charter schools appear to be statutorily entitled to state transportation funds.

Funding

338.155

For funding, charter school students are considered residents of sponsoring district

- (1) Students of a public charter school shall be considered to be residents of the school district in which the public charter school is located for purposes of distribution of the State School Fund.

Minimum ADMw required for district-sponsored charter schools

- (2) A school district shall contractually establish, with any public charter school that is sponsored by the board of the school district, payment for provision of educational services to the public charter school's students. The payment shall equal an amount per weighted average daily membership (ADMw) of the public charter school that is at least equal to:
 - (a) Eighty percent of the amount of the school district's General Purpose Grant per ADMw as calculated under ORS 327.013 for students who are enrolled in kindergarten through grade eight; and
 - (b) Ninety-five percent of the amount of the school district's General Purpose Grant per ADMw as calculated under ORS 327.013 for students who are enrolled in grades 9 through 12.

Minimum ADMw amount required for state-sponsored charter schools

- (3) A school district shall contractually establish, with any public charter school that is sponsored by the State Board of Education and within the boundaries of the school district, payment for provision of educational services to the public charter school's students. The payment shall equal an amount per weighted average daily membership (ADMw) of the public charter school that is at least equal to:
 - (a) Ninety percent of the amount of the school district's General Purpose Grant per ADMw as calculated under ORS 327.013 for students who are enrolled in kindergarten through grade eight; and
 - (b) Ninety-five percent of the amount of the school district's General Purpose Grant per ADMw as calculated under ORS 327.013 for students who are enrolled in grades 9 through 12.

Department of Education required to provide ADMw information to districts

(4) The estimated amount of each school district's General Purpose Grant per ADMw shall be determined each year by the Department of Education and made available to all school districts.

Sponsoring district must send half of the ADMw portion it retains to the student's resident district or the state

(5) The school district in which the public charter school is located shall transfer an amount per weighted average daily membership (ADMw) of the public charter school that is equal to 50 percent of the amount of the school district's General Purpose Grant per ADMw as calculated under ORS 327.013 that is not paid to the public charter school through a contract created pursuant to subsections (2) or (3) of this section to:

- (a) Any school district in which the parent or guardian of or person in parental relationship to a student of a public charter school resides pursuant to ORS 339.133 and 339.134; or
- (b) The Department of Education if the State Board of Education is the sponsor of the public charter school.

State may use charter school funds it receives as a sponsor for charter school activities

(6) The department may use any money received under this section for activities related to public charter schools.

Charter school and sponsor may agree to an ADMw amount higher than the minimum requirement

(7) A school district and a public charter school may negotiate to establish a payment for the provision of educational services to the public charter school's students that is more than the minimum amounts specified in subsection (2) or (3) of this section.

Sponsor must send ADMw to charter school within ten days of receiving it from the state

(8) A school district shall send payment to a public charter school based on a contract negotiated under this section within 10 days after receiving payments from the State School Fund pursuant to ORS 327.095.

Charter schools may apply for grants available to districts and other public schools

(9)(a) A public charter school may apply for any grant that is available to school districts or nonchartered public schools from the Department of Education. The department shall consider the application of the public charter school in the same manner as an application from a school district or nonchartered public school.

(b) The department shall award any grant that is available to school districts based solely on the weighted average daily membership (ADMw) of the school district directly to the public charter school. This paragraph does not apply to any grant from the State School Fund. [1999 c.200 §20]

Additional ADMw for students in poverty

338.157

For purposes of calculating the weighted average daily membership (ADMw) of a public charter school, it shall be assumed that the public charter school has the same percentage of children in poverty families, as calculated under ORS 327.013 (7)(a)(E)(i), as the school district in which the public charter school is located. Based on this percentage, an additional amount shall be added to the average daily membership (ADM) of the public charter school. [2001 c.810 §6]

Special education students; payment for services

338.165

Resident district is responsible to provide special education services

(1) Notwithstanding ORS 338.155 (1), for purposes of this section, the "resident school district" of a student who is eligible for special education and related services shall be the school district in which the student's parent or guardian or person in parental relationship to the student reside pursuant to ORS 339.133 and 339.134.

(2) For students who attend public charter schools and are eligible for special education and related services:

(a) The resident school district of the student shall be responsible for providing any required special education and related services to the student; and

(b) Amounts from the State School Fund for those students shall be distributed through the resident school district pursuant to this section.

Contract between resident district and charter for payment for special education services

(3) Notwithstanding ORS 338.155 (2), a resident school district of a student who is eligible for special education and related services shall contractually establish, with any public charter school in which the student is enrolled, payment for provision of special education and related services to the student. If a student is enrolled in a public charter school and is eligible for special education and related services an additional amount shall be added to the ADM of the public charter school as described in ORS 327.013 (7)(a)(A). The payment per ADMw in the public charter school that is attributable to the student who is eligible for special education and related services shall equal an amount that is at least equal to:

(a) 40 percent of the amount of the school district's General Purpose Grant per ADMw as calculated under ORS 327.013 for students who are enrolled in kindergarten through grade eight; and

(b) 47.5 percent of the amount of the school district's General Purpose Grant per ADMw as calculated under ORS 327.013 for students who are enrolled in grades 9 through 12.

(4) If the resident school district is not the sponsor of a public charter school, the resident school district for each ADMw that is attributable to a student enrolled in a public charter school who is eligible for special education and related services shall transfer five percent of the amount of the school district's General Purpose Grant per ADMw as calculated under ORS 327.013 to the sponsor of the public charter school.

(5) Notwithstanding subsection (3) of this section, a school district and a public charter school may negotiate on a case-by-case basis for an alternative distribution of funds other than the distribution prescribed by subsection (3) of this section. [1999 c.200 §21]

338.175 Public Charter School Development Fund. (1) There is established a Public Charter School Development Fund, separate and distinct from the General Fund, consisting of all funds received from the federal government or from other sources for public charter school development and any loans repaid under ORS 338.185. All expenses incurred in the administration of ORS 338.185 shall be borne by the Public Charter School Development Fund. Interest earned by the fund shall be credited to the fund.

(2) The moneys in the fund are appropriated continuously to the Department of Education. [1999 c.200 §22]

Note: The "Public Charter School Development Fund" currently contains (only) the federal charter school incentive grant funds.

338.185 Grant and loan program. (1) The Department of Education shall award grants and loans to public charter schools that have a charter approved by a sponsor or to applicants that wish to establish or expand a public charter school. The purpose of the grants and loans is to promote development of high quality public charter schools.

(2) Pursuant to rules adopted by the State Board of Education, the Department of Education shall award grants and loans on the basis of need. Priority for awarding grants and loans shall be to those public charter schools serving at-risk youth.

(3) The State Board of Education shall adopt by rule criteria for awarding grants and loans under this section. [1999 c.200 §23]

Note: There is currently no loan program through ODE.

338.990 [Repealed by 1965 c.100 §456]
