

# Chapter 338

2009 EDITION

## Public Charter Schools

### ONLINE LEARNING TASK FORCE

(Temporary provisions relating to the Online Learning Task Force are compiled as notes preceding ORS 338.005)

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**ONLINE LEARNING TASK FORCE**

**Note:** Sections 14 and 15, chapter 691, Oregon Laws 2009, provide:

**Sec. 14.** (1) The Online Learning Task Force is established for the purpose of ensuring that this state provides appropriate access to online learning through public charter schools.

(2)(a) The President of the Senate and the Speaker of the House of Representatives jointly shall appoint 17 members to the task force as follows:

(A) Three members of the Senate, of whom two represent the majority party and one represents the minority party.

(B) Three members of the House of Representatives, of whom two represent the majority party and one represents the minority party.

(C) One member who represents the Department of Education.

(D) One member who is a representative of public education employees.

(E) One member who is a representative of school administrators.

(F) One member who is a representative of school boards.

(G) One member who represents education service districts.

(H) One member who represents public charter schools.

(I) One member who represents the Oregon University System.

(J) One member who is a board member of a public charter school that offers online instruction.

(K) One member who is an administrator of a public charter school that offers online instruction.

(L) One member who represents the State Board of Education.

(M) One member who is a superintendent of a school district that does not sponsor a public charter school that offers online instruction but that has been impacted by public charter schools that offer online instruction.

(b) All appointments to the task force made under this subsection must be completed by July 15, 2009.

(3) The task force shall:

(a) Prepare a report that must address:

(A) Grades and ages to be served by public online instruction through public charter schools;

(B) Curriculum descriptions and accreditation or certification standards of online instruction offered through public charter schools;

(C) Accessibility of online instruction and accommodations of students to public charter schools that offer online instruction;

(D) Methods of financing public charter schools that offer online instruction;

(E) Levels of funding for public charter schools that offer online instruction;

(F) Financial accountability of public charter schools that offer online instruction;

(G) Reporting of student outcomes and compliance with academic accountability standards at public charter schools that offer online instruction;

(H) The use of teachers licensed by the Teacher Standards and Practices Commission, the teaching standards and the frequency of teacher contact at public charter schools that offer online instruction;

(I) Examples of school policies at a public charter school that offers online instruction, including policies involving online harassment, intimidation or bullying;

(J) The method of offering online instruction through school districts and education service districts;

(K) Class sizes of online courses, including the student-to-teacher ratio for the online courses;

(L) How to transition students currently enrolled in public charter schools that offer online instruction to alternative learning options, if necessary;

(M) Methods to determine whether a school district is an appropriate sponsor of a public charter school that provides online instruction;

(N) How to best serve students who are learning English as a second language; and

(O) Any other topic concerning the provision of high-quality online instruction to students in this state and the accessibility of online instruction by students attending public schools in this state.

(b) Prepare any necessary legislation based on the findings made in the report described in paragraph (a) of this subsection.

(4) A majority of the members of the task force constitutes a quorum for the transaction of business.

(5) Official action by the task force requires the approval of a majority of the members of the task force.

(6) The President of the Senate and the Speaker of the House of Representatives shall jointly appoint one member of the Senate who represents the majority party and one member of the House of Representatives who represents the majority party to serve as co-chairpersons of the task force.

(7) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(8) The task force shall meet at times and places specified by:

(a) The work plan developed as provided in subsection (11) of this section;

(b) The call of the co-chairpersons or of a majority of the members of the task force; or

(c) The President of the Senate and the Speaker of the House of Representatives.

(9) The task force may adopt rules necessary for the operation of the task force.

(10) For the first special session of the Legislative Assembly occurring in 2010 or, if there is not a special session in 2010, for the regular session of the Legislative Assembly occurring in 2011, the task force shall presession file legislation in the manner provided in ORS 171.130 for interim committees. All legislation recommended by official action of the task force must indicate that it is introduced at the request of the task force.

(11) No later than September 1, 2009, the co-chairpersons of the task force shall develop and submit to the President of the Senate and the Speaker of the House of Representatives a work plan that describes the timeline of the activities of the task force. The timeline must include the following:

(a) At least four dates between August 1, 2009, and November 30, 2009, when the task force will meet.

(b) The date when the task force will provide to the legislative education committees the report described in subsection (3) of this section and recommendations for legislation. The date may be no later than December 15, 2009.

(12) The Legislative Administrator may employ persons necessary for the performance of the functions of the task force. The Legislative Administrator shall fix the duties and amounts of compensation of these employees. The task force shall use the services of per-

manent legislative staff to the greatest extent practicable.

(13) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the task force consider necessary to perform their duties. [2009 c.691 §14]

**Sec. 15.** Section 14 of this 2009 Act is repealed on the date of the convening of the next regular biennial legislative session [January 10, 2011]. [2009 c.691 §15]

## GENERAL PROVISIONS

**338.005 Definitions.** As used in this chapter, unless the context requires otherwise:

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

(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.

(3) “Remote and necessary school district” means a school district that offers kindergarten through grade 12 and has:

(a) An average daily membership (ADM), as defined in ORS 327.006, in the prior fiscal year of less than 110; and

(b) A school that is located, by the nearest traveled road, more than 20 miles from the nearest school or from a city with a population of more than 5,000.

(4) “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.

(5)(a) “Virtual public charter school” means a public charter school that provides online courses.

(b) “Virtual public charter school” does not include a public charter school that primarily serves students in a physical location. [1999 c.200 §2; 2007 c.575 §2; 2009 c.691 §1]

**Note:** Section 3, chapter 575, Oregon Laws 2007, provides:

**Sec. 3.** The amendments to ORS 338.005 and 338.035 by sections 1 and 2 of this 2007 Act apply to a public charter school that:

(1) First begins operation as a public charter school on or after the effective date of this 2007 Act [July 1, 2007]; or

(2) Renews its charter on or after the effective date of this 2007 Act. [2007 c.575 §3]

**338.010** [Amended by 1965 c.100 §153; renumbered 332.405]

**338.015 Legislative intent; goals.** 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:

(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]

**338.020** [Repealed by 1965 c.100 §456]

**338.025 Rules; waiver of provisions of chapter; exceptions.** (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.

(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 (s). [1999 c.200 §13; 2001 c.810 §3; 2005 c.367 §5; 2007 c.575 §4; 2007 c.660 §4; 2008 c.50 §13]

**Note:** The amendments to 338.025 by section 8, chapter 839, Oregon Laws 2007, and section 14, chapter 50, Oregon Laws 2008, become operative July 1, 2017, and first apply to the 2017-2018 school year. See section 9, chapter 839, Oregon Laws 2007, and section 15, chapter 50, Oregon Laws 2008. The text that is operative on and after July 1, 2017, is set forth for the user's convenience.

**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.

(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 (t).

**338.030** [Repealed by 1965 c.100 §456]

## FORMATION

**338.035 Establishment requirements; proposal submission timeline; prohibitions.** (1) A public charter school may be established:

- (a) As a new public school;
- (b) As a virtual public charter school;
- (c) From an existing public school or a portion of the school; or
- (d) 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) A school in a school district that is composed of only one school; and
- (B) A school in a school district that is a remote and necessary school district on the date the school first begins operation as a public charter school.

(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.

(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.

(5)(a) One or more, but not all, schools in a school district may become public charter schools.

(b) Notwithstanding paragraph (a) of this subsection, a school in a school district that is composed of only one school may become a public charter school.

(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.

(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.

(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. [1999 c.200 §3; 2003 c.313 §1; 2005 c.209 §26; 2007 c.575 §1; 2009 c.691 §2]

**Note:** See note under 338.005.

**338.040** [Repealed by 1965 c.100 §456]

**338.045 Proposal requirements; technical assistance; buildings.** (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) A description of the financial management systems for the public charter school and a plan for having the financial management systems in place at the time the school begins operating;

(o) The standards for behavior and the procedures for the discipline, suspension or expulsion of students;

(p) The proposed school calendar for the public charter school, including the length of the school day and school year;

(q) A description of the proposed staff members and required qualifications of teachers at the public charter school;

(r) The date upon which the public charter school would begin operating;

(s) 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;

(t) Information on the manner in which community groups may be involved in the planning and development process of the public charter school;

(u) The term of the charter;

(v) The plan for performance bonding or insuring the public charter school, including buildings and liabilities;

(w) 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;

(x) The manner in which the program review and fiscal audit will be conducted; and

(y) 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.

(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.

(5) School districts, education service districts and other public bodies, as defined in ORS 174.109, shall make available to the public lists of vacant and unused public buildings and portions of buildings that may be suitable for the operation of a public charter school. The lists shall be provided to developing or operating public charter schools within 30 days of a written request. Nothing in this subsection requires the owner of a building on the list to sell or lease the building or any portion of the building to a public charter school or a public charter school governing body. [1999 c.200 §6; 2007 c.671 §1; 2009 c.691 §4]

**338.050** [Repealed by 1965 c.100 §456]

**338.055 Approval process; public hearing; evaluation criteria; notice of decision; fees prohibited; timeline extensions.** (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.

(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, including the demonstrated ability of the school to have a sound financial management system in place at the time the school begins operating;

(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;

(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.

(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.

(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.

(5) Individual elements in a public charter school proposal may be changed through the proposal 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.

(7) The school district board or the State Board of Education shall not charge any fee to applicants for the proposal 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; 2005 c.209 §27; 2009 c.691 §5]

**338.060** [Renumbered 332.415]

**338.065 Terms and form of charter; amendment of charter; renewal; appeal.**

(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.

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

(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.

(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.

(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.

(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.

(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.

(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.

(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.

(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.

(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 has used the sound financial management system described in the proposal submitted under ORS 338.045 and incorporated into the written charter under this section; 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; 2009 c.691 §10]

**338.070** [Amended by 1965 c.100 §154; 1965 c.123 §2; renumbered 332.425]

**338.075 Review of school district board decision; sponsorship by State Board of Education; judicial review.** (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.

(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 proposal.

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

(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.

(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 evi-

dence in the record, the court shall enter a judgment directing the State Board of Education to sponsor the public charter school. [1999 c.200 §9; 2001 c.376 §1; 2005 c.209 §28]

### OPERATION

#### 338.095 Annual report, visit and audit.

(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.

(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. After an audit, the following shall be forwarded to the sponsor, the State Board of Education and the Department of Education:

(a) A copy of the annual audit;

(b) Any statements from the public charter school that show the results of all operations and transactions affecting the financial status of the public charter school during the preceding annual audit period for the school; and

(c) A balance sheet containing a summary of the assets and liabilities of the public charter school as of the closing date of the preceding annual audit period for the school.

(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; 2009 c.691 §11]

**338.105 Termination of charter; appeal; rules; dissolution or closure of school.** (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.

(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.

(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.

(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.

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

(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.

(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. [1999 c.200 §11]

**Note:** The amendments to 338.105 by section 12, chapter 691, Oregon Laws 2009, become operative July 1, 2011. See section 13, chapter 691, Oregon Laws 2009. The text that is operative on and after July 1, 2011, is set forth for the user's convenience.

**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.

(f) Failure to maintain, for two or more consecutive years, a sound financial management system described in the proposal submitted under ORS 338.045 and incorporated into the written charter under ORS 338.065.

(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.

(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.

(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.

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

(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.

(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.

**338.115 Applicability of laws; restrictions; powers; student diplomas and alternative certificates.** (1) Statutes and rules that apply to school district boards, school districts or other public schools do not apply to public charter schools. However, the following laws do 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 181.534, 326.603, 326.607, 342.223 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, 659.855 and 659.860 (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 (2);

(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);

(p) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of child abuse and training on prevention and identification of child abuse);

(q) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative certificate);

(r) ORS chapter 657 (Employment Department Law);

(s) ORS 339.326; and

(t) This chapter.

(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.

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

(4) A public charter school may 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.

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

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

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

(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.

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

(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.

(11) The school district in which the public charter school is located shall offer a high school diploma, a modified diploma, an extended diploma or an alternative certificate to any public charter school student who meets the district’s and state’s standards for a high school diploma, a modified diploma, an extended diploma or an alternative certificate.

(12) A high school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a public charter school grants to the holder the same rights and privileges as a high school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a nonchartered public school.

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

(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. [1999 c.200 §12; 2001 c.810 §4; 2003 c.303 §15; 2005 c.367 §4; 2005 c.730 §16; 2007 c.35 §6; 2007 c.256 §3; 2007 c.501 §3; 2007 c.575 §5; 2007 c.660 §17; 2007 c.858 §33; 2008 c.50 §11; 2009 c.618 §3]

**Note:** The amendments to 338.115 by section 7, chapter 839, Oregon Laws 2007, and section 12, chapter 50, Oregon Laws 2008, become operative July 1, 2017, and first apply to the 2017-2018 school year. See section 9, chapter 839, Oregon Laws 2007, and section 15, chapter 50, Oregon Laws 2008. The text that is operative on and after July 1, 2017, including amendments by section 4, chapter 618, Oregon Laws 2009, is set forth for the user’s convenience.

**338.115.** (1) Statutes and rules that apply to school district boards, school districts or other public schools do not apply to public charter schools. However, the following laws do 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 181.534, 326.603, 326.607, 342.223 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, 659.855 and 659.860 (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 (2);
- (m) ORS 329.045 (academic content standards and instruction);
- (n) ORS 329.496 (physical education);
- (o) Any statute or rule that establishes requirements for instructional time provided by a school during each day or during a year;
- (p) ORS 339.250 (12) (prohibition on infliction of corporal punishment);
- (q) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of child abuse and training on prevention and identification of child abuse);
- (r) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative certificate);
- (s) ORS chapter 657 (Employment Department Law);
- (t) ORS 339.326; and
- (u) This chapter.

(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.

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

(4) A public charter school may 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.

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

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

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

(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.

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

(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.

(11) The school district in which the public charter school is located shall offer a high school diploma, a modified diploma, an extended diploma or an alternative certificate to any public charter school student who meets the district's and state's standards for a high school diploma, a modified diploma, an extended diploma or an alternative certificate.

(12) A high school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a public charter school grants to the holder the same rights and privileges as a high school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a nonchartered public school.

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

(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.

**338.120 Additional requirements for virtual public charter schools; access to documents.** (1) In addition to any other requirements of this chapter for a public charter school, a virtual public charter school must have:

(a) A plan for academic achievement that addresses how the school will improve student learning and meet academic content standards required by ORS 329.045.

(b) Performance criteria the school will use to measure the progress of the school in meeting the academic performance goals set by the school for its first five years of operation.

(c) A plan for implementing the proposed education program of the school by directly and significantly involving parents and guardians of students enrolled in the school and involving the professional employees of the school.

(d) A budget, business plan and governance plan for the operation of the school.

(e) An agreement that the school will operate using an interactive Internet-based technology platform that monitors and tracks student progress and attendance in conjunction with performing other student assessment functions.

(f) Notwithstanding ORS 338.135 (7), an agreement to employ only licensed teachers who are highly qualified as described in the federal No Child Left Behind Act of 2001 (P.L. 107-110, 115 Stat. 1425).

(g) A plan for maintaining student records and school records, including financial records, at a designated central office of operations.

(h) A plan to provide equitable access to the education program of the school by ensuring that each student enrolled in the school:

(A) Has access to and use of computer and printer equipment as needed;

(B) Is offered an Internet service cost reimbursement arrangement under which the school reimburses the parent or guardian of the student, at a rate set by the school, for the costs of obtaining Internet service at the minimum connection speed required to effectively access the education program provided by the school; or

(C) Has access to and use of computer and printer equipment and is offered Internet service cost reimbursement.

(i) A plan to provide access to computer and printer equipment and the Internet service cost reimbursement as described in paragraph (h) of this subsection by students enrolled in the school who are from families that qualify as low-income under Title I of the federal Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(j) A plan to conduct school-sponsored optional educational events at least six times each school year at locations selected to provide convenient access to all students enrolled in the school who want to participate.

(k) A plan to conduct biweekly meetings between teachers and students enrolled in the school, either in person or through the use of conference calls or other technology.

(L) A plan to provide opportunities for face-to-face meetings between teachers and students enrolled in the school at least six times each school year.

(2) If a virtual public charter school enters into a contract with a third-party entity to provide educational services for the virtual public charter school, the virtual public charter school must have on file the third-party entity's budget for the provision of educational services and that budget must itemize:

(a) The salaries of supervisory and management personnel and consultants who are providing educational or related services for a public charter school in this state; and

(b) The annual operating expenses and profit margin of the third-party entity for

providing educational services to a public charter school in this state.

(3)(a) The sponsor of a virtual public charter school or a member of the public may request access to any of the documents described in subsections (1) and (2) of this section.

(b) Upon request by a sponsor or a member of the public, a virtual public charter school must provide reasonable access to the documents described in subsections (1) and (2) of this section. The documents may be provided electronically. [2009 c.691 §8]

**Note:** Section 9, chapter 691, Oregon Laws 2009, provides:

**Sec. 9.** Section 8 of this 2009 Act [338.120] applies to all virtual public charter schools established in this state prior to, on or after the effective date of this 2009 Act [July 14, 2009]. [2009 c.691 §9]

**338.125 Student admissions; fund-raising activities; online courses.** (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. 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.

(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.

(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.

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

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

condition of admission to the public charter school. [1999 c.200 §14; 2001 c.810 §8; 2005 c.834 §5; 2007 c.100 §23]

**Note:** Section 13c, chapter 691, Oregon Laws 2009, provides:

**Sec. 13c.** ORS 338.125 (2)(b) applies to all public charter schools operating in this state prior to, on or after the effective date of this 2009 Act [July 14, 2009] unless:

(1) A public charter school has been granted a waiver of the provisions of ORS 338.125 (2)(b) by the State Board of Education under ORS 338.025; and

(2) The public charter school complies with the terms of the waiver described in subsection (1) of this section. [2009 c.691 §13c]

**Note:** Sections 17 and 18, chapter 691, Oregon Laws 2009, provide:

**Sec. 17. Admission of students to virtual public charter schools.** (1) As used in this section:

(a) "District student" means a student who resides in the school district that is the sponsor of a virtual public charter school.

(b) "Nondistrict student" means a student who does not reside in the school district that is the sponsor of a virtual public charter school.

(2)(a) Notwithstanding any other provision of this chapter [ORS chapter 338], and based on the number of students to whom online instruction was provided on May 1, 2009, a virtual public charter school may not increase the number of students to whom online instruction is provided. This section applies to all virtual public charter schools established in this state prior to, on or after the effective date of this 2009 Act [July 14, 2009] unless:

(A) Fifty percent or more of the students who attend the virtual public charter school are district students, in which case the number of students receiving online instruction may increase until the number of nondistrict students receiving online instruction is no greater than 50 percent of the total number of students receiving online instruction; or

(B) The virtual public charter school has been granted a waiver by the State Board of Education under ORS 338.025 of the provisions of ORS 338.125 (2)(b), and the school complies with the terms of the waiver.

(b)(A) Notwithstanding the restrictions of paragraph (a) of this subsection, a virtual public charter school may enroll a sibling of a student if the student was enrolled in the virtual public charter school on May 1, 2009, even if the virtual public charter school is restricted from increasing the number of students to whom online instruction is provided and only if the virtual public charter school is in compliance with subparagraphs (B) and (C) of this paragraph.

(B) A student who is a sibling of a student who was enrolled in the virtual public charter school on May 1, 2009, may enroll in the virtual public charter school as provided in this paragraph only if the enrollment is for the next academic term during which a student may begin receiving online instruction.

(C) A virtual public charter school that is restricted from increasing the number of students to whom online instruction is provided but that is able to enroll new students within the limits of that restriction must first enroll students who are siblings of students who were enrolled in the virtual public charter school on May 1, 2009.

(c) Notwithstanding the restrictions of paragraph (a) of this subsection, a virtual public charter school that did not provide online instruction to any students on May 1, 2009, may increase the number of students to whom online instruction is provided until the number of nondistrict students receiving online instruction is

no greater than 50 percent of the total number of students receiving online instruction.

(d)(A) Notwithstanding the restrictions of paragraph (a) of this subsection and notwithstanding subsection (3) of this section, a virtual public charter school may increase the number of students to whom online instruction is provided if:

(i) The virtual public charter school had students enrolled on May 1, 2009;

(ii) The enrollment of the virtual public charter school was 120 or fewer students on May 1, 2009; and

(iii) The State Board of Education provides a waiver to the virtual public charter school under ORS 338.025 of the restrictions imposed by paragraph (a) of this subsection and the requirements of ORS 338.125 (2)(b).

(B) A waiver allowed under this paragraph may only allow a virtual public charter school described in this paragraph to increase, before July 1, 2011, the number of students to whom online instruction is provided to 120 without violating the provisions of this section or ORS 338.125 (2)(b). After the virtual public charter school has enrolled 120 students, enrollment of any additional students must comply with the provisions of ORS 338.125 (2)(b).

(3) Notwithstanding ORS 338.025, the State Board of Education may not approve a waiver of ORS 338.125 (2)(b) for a virtual public charter school established in this state prior to, on or after the effective date of this 2009 Act. This subsection applies to requests for waivers for a virtual public charter school that:

(a) Are pending before the State Board of Education or first submitted to the State Board of Education on or after the effective date of this 2009 Act; or

(b) Are granted on or after April 27, 2009, in which case the waiver is immediately revoked.

(4) A virtual public charter school that is in violation of the provisions of ORS 338.125 (2)(b) may continue to operate as long as the virtual public charter school is in compliance with this section. [2009 c.691 §17]

**Sec. 18.** Section 17 of this 2009 Act is repealed on July 1, 2011. [2009 c.691 §18]

**338.135 Employees; licensure and registration requirements; collective bargaining; prohibition on waiver of right to sponsor charter school.** (1) Employee assignment to a public charter school shall be voluntary.

(2)(a) A public charter school or the sponsor of the public charter school is 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 may 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.

(b) If a virtual public charter school or the sponsor of a virtual public charter school contracts with a for-profit entity to provide educational services through the virtual public charter school, the for-profit entity

may not be the employer of any employees of the virtual public charter school.

(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.

(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.

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

(7)(a) Any person employed as an administrator in a public charter school shall be licensed or registered to administer by the Teacher Standards and Practices Commission.

(b) Any person employed as a teacher in a public charter school shall be licensed or registered to teach by the commission.

(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.

(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.

(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. [1999 c.200 §17; 1999 c.199 §1; 2003 c.733 §73; 2007 c.575 §6; 2009 c.691 §13a]

**Note:** Section 13b, chapter 691, Oregon Laws 2009, provides:

**Sec. 13b.** (1) Except as provided in subsection (2) of this section, ORS 338.135 (2)(b) applies to all virtual public charter schools operating in this state prior to, on or after the effective date of this 2009 Act [July 14, 2009].

(2) ORS 338.135 (2)(b) does not apply if a virtual public charter school or sponsor of a virtual public charter school entered into a contract with a for-profit entity prior to the effective date of this 2009 Act and the contract provided for the employment of employees of the virtual public charter school by the for-profit entity. A contract described in this subsection may not be extended or renewed. [2009 c.691 §13b]

**338.145 Responsibility for student transportation services; costs.** (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.

(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.

(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. [1999 c.200 §19; 2003 c.715 §25]

## FUNDING

**338.155 Minimum amount required; grants available to charter schools.** (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.

(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.

(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.

(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.

(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.

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

(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.

(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.

(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]

**338.157 Adjusting number of students for poverty level.** 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 (1)(c)(A)(v)(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; 2009 c.698 §18]

**338.165 Special education students; payment for 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 resides 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.

(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 (1)(c)(A)(i). 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; 2009 c.698 §19]

**338.175** [1999 c.200 §22; repealed by 2009 c.95 §2]

**338.185 Grant and loan program; rules.** (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

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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]

**338.990** [Repealed by 1965 c.100 §456]

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