Chapter 338

2013 EDITION

Public Charter Schools

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GENERAL PROVISIONS

338.005 Definitions for chapter. 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) "Institution of higher education" means a community college operated under ORS chapter 341, a public university listed in ORS 352.002 or the Oregon Health and Science University.

(3) "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.

(4) "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.

(5) "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.

(c) An institution of higher education pursuant to ORS 338.075.

(6)(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; 2011 c.695 §1; 2012 c.91 §19]

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 (y), 338.120, 338.125 (4), 338.135 (2)(b) or 339.122. [1999 c.200 §13; 2001 c.810 §3; 2005 c.367 §5; 2007 c.575 §4; 2007 c.660 §4; 2008 c.50 §13; 2010 c.53 §4; 2010 c.72 §3; 2011 c.94 §4; 2011 c.649 §3; 2011 c.718 §26; 2013 c.98 §8; 2013 c.265 §15]

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, including amendments by section 5, chapter 53, Oregon Laws 2010, section 4, chapter 72,

Oregon Laws 2010, section 5, chapter 94, Oregon Laws 2011, section 4, chapter 649, Oregon Laws 2011, section 27, chapter 718, Oregon Laws 2011, section 9, chapter 98, Oregon Laws 2013, and section 16, chapter 265, Oregon Laws 2013, 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 (z), 338.120, 338.125 (4), 338.135 (2)(b) or 339.122.

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)(a) Except for a public charter school that is not required to comply with subsection (2)(a)(B) and (C) of this section as provided by subsection (2)(b) of this section, a member of the school district board of the school district within which a public charter school is located may not be a voting member of the public charter school governing body.

(b) A member of the school district board of the school district within which a public charter school is located may act in an advisory capacity on the public charter school governing body.

(4) 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 by the date identified by the school district board. The school district board shall identify a date that is at least 180 days prior to the date on which the public charter school would begin operating and that provides a reasonable period of time for the school district board to complete the approval process described in ORS 338.055 and for the public charter school to begin operating by the beginning of a school year. An applicant may consult with the school district board prior to submitting a proposal, and the school district board may require an applicant to submit a letter of intent within a reasonable period of time prior to submitting a proposal.

(5) 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.

(6)(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.

(7)(a) An entity described in ORS 338.005 (5) 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, an entity described in ORS 338.005 (5) may authorize the conversion of an existing alternative education program, as defined in ORS 336.615, to a public charter school.

(8) An entity described in ORS 338.005 (5) may not approve a proposal for a public charter school 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; 2011 c.695 §2; 2013 c.265 §1]

Note: Section 7, chapter 265, Oregon Laws 2013, provides:

Sec. 7. The amendments to ORS 338.035, 338.045, 338.055 and 338.075 by sections 1 to 6 of this 2013 Act first apply to proposals received on or after the effective date of this 2013 Act [January 1, 2014]. [2013 c.265 §7]

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 system for the public charter school, an explanation of how the financial management system will meet the requirements of ORS 338.095 (1) and a plan for having the financial management system 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:

(a) The school district board may require any additional information the board considers relevant to the formation or operation of a public charter school.

(b) Each member of a proposed public charter school governing body must provide an acknowledgment of understanding related to the standards of conduct and the liabilities of a director of a nonprofit organization, as those standards and liabilities are described in ORS chapter 65, if the public charter school is organized as required by ORS 338.035 (2)(a)(B) and (C).

(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; 2011 c.684 §4; 2013 c.265 §2]

Note: See note under 338.035.

338.050 [Repealed by 1965 c.100 §456]

338.055 Evaluation process and criteria; appeals; mediation. (1)(a) Upon receipt of a proposal submitted under ORS 338.045, the school district board shall determine whether the proposal is complete. A proposal is complete if the proposal addresses, at least minimally, each element required by ORS 338.045 (2) and (3).

(b) The school district board shall notify an applicant within 30 days after receipt of a proposal if the proposal is not complete and identify the specific elements of the proposal that are not complete. The school district board shall provide the applicant with a reasonable opportunity to complete the proposal.

(c) A proposal may be disapproved if the applicant has received a reasonable opportunity to complete the proposal and the applicant does not provide a proposal that is complete.

(d) If the school district board disapproves a proposal as provided by paragraph (c) of this subsection, the applicant may appeal the decision to the State Board of Education. The State Board of Education may review the proposal only for completeness and may determine that the proposal is:

(A) Not complete and uphold the decision of the school district board; or

(B) Complete and remand the proposal to the school district board for consideration.

(2) Within 60 days after receipt of a completed proposal, the school district board shall hold a public hearing on the provisions of the proposal.

(3) 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 (2) 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 that is in place at the time the school begins operating and that meets the requirements of ORS 338.095 (1);

(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 adequacy of the information provided as required by ORS 338.045 (2) and (3);

(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;

(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; and

(i) The prior history, if any, of the applicant in operating a public charter school or in providing educational services.

(4) 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 (2) of this section.

(5)(a) Written notice of the school district board's action shall be sent to the applicant. If the proposal is not approved:

(A) 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; and

(B) The applicant may amend the proposal to address objections and any suggested remedial measures and resubmit the proposal to the school district board.

(b) The school district board shall approve or disapprove the resubmitted proposal within 30 days after receiving it. If the proposal is not approved, the applicant may:

(A) Appeal the decision of the school district board to the State Board of Education as provided by ORS 338.075; or

(B) Submit a proposal to an institution of higher education as provided by ORS 338.075.

(c) When the State Board of Education receives an appeal under this subsection, the board may review the resubmitted proposal only to determine whether:

(A) The school district board used the process required by this section in denying the proposal;

(B) The proposal meets the criteria described in subsection (3) of this section; and

(C) The reasons stated by the school district board for the denial are valid.

(d) Following a review described in paragraph (c) of this subsection, the State Board of Education may:

(A) Uphold the decision of the school district board to disapprove the proposal; or

(B) Remand the proposal to the school district board for reconsideration.

(6)(a) Individual elements in a public charter school proposal may be changed through the proposal and chartering process by mutual agreement of the school district board and the applicant.

(b) If the school district board and the applicant are unable to agree on a change during the proposal or chartering process, the school district board or the applicant may request mediation by the State Board of Education.

(c) If the school district board and the applicant are unable to reach an agreement following mediation as described in paragraph (b) of this subsection, the proposal submitted under ORS 338.045, without the change that was the subject of mediation, shall be the proposal that governs the public charter school and:

(A) The parties may execute the charter for the public charter school based on the proposal;

(B) The applicant may withdraw the proposal; or

(C) The school district board may disapprove the proposal.

(7) Before an existing public school is converted to a public charter school, the proposal for the conversion must be approved by the school district board of the public school.

(8) Entities described in ORS 338.005 (5) may not charge any fee to applicants for the proposal process.

(9) 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; 2011 c.684 §5; 2011 c.695 §3; 2013 c.265 §3; 2013 c.327 §4]

Note: See note under 338.035.

Note: The amendments to 338.055 by section 10, chapter 695, Oregon Laws 2011, become operative July 1, 2017. See section 12, chapter 695, Oregon Laws 2011, as amended by section 30, chapter 718, Oregon Laws 2011. The text that is operative on and after July 1, 2017, including amendments by section 4, chapter 265, Oregon Laws 2013, and section 5, chapter 327, Oregon Laws 2013, is set forth for the user's convenience.

338.055. (1)(a) Upon receipt of a proposal submitted under ORS 338.045, the school district board shall determine whether the proposal is complete. A proposal is complete if the proposal addresses, at least minimally, each element required by ORS 338.045 (2) and (3).

(b) The school district board shall notify an applicant within 30 days after receipt of a proposal if the proposal is not complete and identify the specific elements of the proposal that are not complete. The school district board shall provide the applicant with a reasonable opportunity to complete the proposal.

(c) A proposal may be disapproved if the applicant has received a reasonable opportunity to complete the proposal and the applicant does not provide a proposal that is complete.

(d) If the school district board disapproves a proposal as provided by paragraph (c) of this subsection, the applicant may appeal the decision to the State Board of Education. The State Board of Education may review the proposal only for completeness and may determine that the proposal is:

(A) Not complete and uphold the decision of the school district board; or

(B) Complete and remand the proposal to the school district board for consideration.

(2) Within 60 days after receipt of a completed proposal, the school district board shall hold a public hearing on the provisions of the proposal.

(3) 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 (2) 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 that is in place at the time the school begins operating and that meets the requirements of ORS 338.095 (1);

(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 adequacy of the information provided as required by ORS 338.045 (2) and (3);

(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;

(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; and

(i) The prior history, if any, of the applicant in operating a public charter school or in providing educational services.

(4) 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 (2) of this section.

(5)(a) Written notice of the school district board's action shall be sent to the applicant. If the proposal is not approved:

(A) 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; and

(B) The applicant may amend the proposal to address objections and any suggested remedial measures and resubmit the proposal to the school district board.

(b) The school district board shall approve or disapprove the resubmitted proposal within 30 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.

(c) When the State Board of Education receives an appeal under this subsection, the board may review the resubmitted proposal only to determine whether:

(A) The school district board used the process required by this section in denying the proposal;

(B) The proposal meets the criteria described in subsection (3) of this section; and

(C) The reasons stated by the school district board for the denial are valid.

(d) Following a review described in paragraph (c) of this subsection, the State Board of Education may:

(A) Uphold the decision of the school district board to disapprove the proposal; or

(B) Remand the proposal to the school district board for reconsideration.

(6)(a) Individual elements in a public charter school proposal may be changed through the proposal and chartering process by mutual agreement of the school district board and the applicant.

(b) If the school district board and the applicant are unable to agree on a change during the proposal or chartering process, the school district board or the applicant may request mediation by the State Board of Education.

(c) If the school district board and the applicant are unable to reach an agreement following mediation as described in paragraph (b) of this subsection, the proposal submitted under ORS 338.045, without the change that was the subject of mediation, shall be the proposal that governs the public charter school and:

(A) The parties may execute the charter for the public charter school based on the proposal;

(B) The applicant may withdraw the proposal; or

(C) The school district board may disapprove the proposal.

(7) Before an existing public school is converted to a public charter school, the proposal for the conversion must be approved by the school district board of the public school.

(8) Entities described in ORS 338.005 (5) may not charge any fee to applicants for the proposal process.

(9) 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.

338.060 [Renumbered 332.415]

338.065 Terms and form of charter; renewal; appeal. (1)(a) 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.

(b) Pursuant to ORS 338.075 (2) or (3), the State Board of Education shall become the sponsor of the public charter school.

(c) Pursuant to ORS 338.075 (4), the institution of higher education shall become the sponsor of the public charter school.

(2) The sponsor and the 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. As provided by ORS 338.055 (6), the sponsor and the applicant may agree to change elements of the proposal prior to incorporating them into 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.

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

(4)(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.

(5)(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 30 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.

(e) 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 re-

newal of the charter unless the sponsor and the public charter school governing body agree to an extension of the time period. Notwithstanding the time period specified in the charter, an expiring charter shall remain in effect until a new charter is negotiated.

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

(g) Notwithstanding paragraphs (b) to (f) 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 (f) of this subsection.

(6)(a) If the sponsor does not renew the charter based on the revised request for renewal submitted under subsection (5)(f) 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 state board finds that the sponsor used the process required by this section in denying the request for renewal, the state board shall affirm the decision of the sponsor. A public charter school governing body may seek judicial review of an order of the state board pursuant to ORS 183.484.

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

(7) If the State Board of Education is the sponsor of a public charter school and the state board does not renew the charter based on the revised request for renewal submitted under subsection (5)(f) of this section, the public charter school governing body may seek judicial review of an order of the state board pursuant to ORS 183.484 for a review of whether the state board used the process required by this section in denying the request for renewal.

(8)(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; 2011 c.695 §4; 2013 c.136 §1; 2013 c.265 §8]

Note: Section 5, chapter 695, Oregon Laws 2011, provides:

Sec. 5. (1) Notwithstanding ORS 338.065, an institution of higher education may not become a sponsor of a public charter school that begins operating prior to the 2012-2013 school year.

(2) Nothing in subsection (1) of this section prevents:

(a) Institutions of higher education from evaluating and approving proposals to establish public charter schools.

(b) Public charter schools from taking any actions necessary to begin operating during the 2012-2013 school year. [2011 c.695 §5]

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 or institution of higher education; judicial review. (1) If a school district board disapproves a proposal to establish a public charter school following reconsideration of a proposal pursuant to ORS 338.055 (5), the applicant may:

(a) Request that the State Board of Education review the decision of the school district board; or

(b) Submit a proposal to an institution of higher education.

(2)(a) If the State Board of Education reviews a decision of the school district board, as provided by subsection (1)(a) of this sec-

tion, the State Board of Education may review the decision only to determine whether:

(A) The school district board used the process required by ORS 338.055 in denying the proposal;

(B) The proposal meets the criteria described in ORS 338.055 (3); and

(C) The reasons stated by the school district board for the denial are valid.

(b) Following a review described in paragraph (a) of this subsection, the State Board of Education may:

(A) Uphold the decision of the school district board to disapprove the proposal;

(B) Remand the proposal to the school district board for reconsideration if the school district board and applicant agree to the remand; or

(C) Consider becoming the sponsor of the public charter school if the applicant agrees to the sponsorship.

(3) 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.

(4)(a) An applicant seeking sponsorship by an institution of higher education may submit to the institution of higher education the same proposal that was submitted to the school district board under ORS 338.045 or a proposal that is modified to take into consideration the characteristics of the institution of higher education evaluating the proposal under this subsection.

(b) Upon receipt of a proposal, an institution of higher education may evaluate the proposal. The institution of higher education shall:

(A) Approve or disapprove the proposal using the criteria described in ORS 338.055 (3)(b) to (h) and approve the proposal only if the institution of higher education may become a sponsor as provided by paragraphs (e) and (f) of this subsection; or

(B) Disapprove the proposal based on the institution's determination that the proposal does not align with the mission of the institution of higher education.

(c)(A) The following decisions by an institution of higher education are final and not subject to appeal:

(i) Whether to evaluate a proposal for a public charter school; and

(ii) The approval or disapproval of a proposal for a public charter school.

(B) The process by which an institution of higher education makes a decision described in subparagraph (A) of this paragraph is not subject to appeal.

(d) Within 60 days after receiving a proposal, the institution of higher education must approve the proposal or, if disapproving the proposal, state in writing the reasons for disapproving the proposal.

(e) An institution of higher education may approve a proposal evaluated under this subsection only if the main campus of the institution of higher education is located within 25 miles of the proposed public charter school, based on the nearest traveled road.

(f) An institution of higher education may become a sponsor of only one public charter school in this state, regardless of the number of campuses or locations of the institution of higher education.

(g) If a public charter school has a sponsor that is an institution of higher education and the public charter school enters into a contract with a third-party entity to provide educational services for the public charter school:

(A) A member of the governing body of the public charter school or the governing body of the sponsor may not be an employee of the third-party entity, be a member of the governing board of the third-party entity or be any other representative of the third-party entity;

(B) An employee or a member of the governing board of the third-party entity may not attend an executive session of the sponsor;

(C) An employee of the public charter school may not promote the sale or benefits of private supplemental services or classes offered by the third-party entity; and

(D) The educational services provided by the third-party entity must comply with state standards and requirements, and any provision of the contract with the third-party entity that does not allow for the provision of educational services that comply with state standards and requirements is void. [1999 c.200 §9; 2001 c.376 §1; 2005 c.209 §28; 2011 c.695 §6; 2011 c.718 §28; 2012 c.91 §4; 2013 c.265 §5]

Note: See note under 338.035.

Note: The amendments to 338.075 by section 29, chapter 718, Oregon Laws 2011, become operative July 1, 2017. See section 12, chapter 695, Oregon Laws 2011, as amended by section 30, chapter 718, Oregon Laws 2011. The text that is operative on and after July 1, 2017, including amendments by section 5, chapter 91, Oregon Laws 2012, and section 6, chapter 265, Oregon Laws 2013, is set forth for the user's convenience.

338.075. (1) If a school district board disapproves a proposal to establish a public charter school following reconsideration of a proposal pursuant to ORS 338.055 (5), the applicant may request that the State Board of

Education review the decision of the school district board.

(2)(a) If the State Board of Education reviews a decision of the school district board, as provided by subsection (1) of this section, the State Board of Education may review the decision only to determine whether:

(A) The school district board used the process required by ORS 338.055 in denying the proposal;

(B) The proposal meets the criteria described in ORS 338.055 (3); and

(C) The reasons stated by the school district board for the denial are valid.

(b) Following a review described in paragraph (a) of this subsection, the State Board of Education may:

(A) Uphold the decision of the school district board to disapprove the proposal;

(B) Remand the proposal to the school district board for reconsideration if the school district board and applicant agree to the remand; or

(C) Consider becoming the sponsor of the public charter school if the applicant agrees to the sponsorship.

(3) 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.

(4)(a) An institution of higher education may sponsor a public charter school only if:

(A) The main campus of the institution of higher education is located within 25 miles of the proposed public charter school, based on the nearest traveled road; and

(B) The institution of higher education first became a sponsor of the public charter school prior to July 1, 2017.

(b) An institution of higher education may sponsor only one public charter school in this state, regardless of the number of campuses or locations of the institution of higher education.

(c) If a public charter school has a sponsor that is an institution of higher education and the public charter school enters into a contract with a third-party entity to provide educational services for the public charter school:

(A) A member of the governing body of the public charter school or the governing body of the sponsor may not be an employee of the third-party entity, be a member of the governing board of the third-party entity or be any other representative of the third-party entity;

(B) An employee or a member of the governing board of the third-party entity may not attend an executive session of the sponsor;

(C) An employee of the public charter school may not promote the sale or benefits of private supplemental services or classes offered by the third-party entity; and

(D) The educational services provided by the third-party entity must comply with state standards and requirements, and any provision of the contract with the third-party entity that does not allow for the provision of educational services that comply with state standards and requirements is void.

338.080 Cooperative agreement to provide educational services. (1) A sponsor and a public charter school may enter into a cooperative agreement with other school districts for the purpose of forming a partnership to provide educational services.

(2) A cooperative agreement entered into as provided by this section must:

(a) Be incorporated into the charter of the public charter school; and

(b) Describe the terms of the partnership between the sponsor, the public charter school and other school districts. [2011 c.682 §2]

OPERATION

338.095 Financial management system; annual report, visit and audit. (1) The financial management system of a public charter school must include a budget and accounting system that:

(a) Is compatible with the budget and accounting system of the sponsor of the school; and

(b) Complies with the requirements of the uniform budget and accounting system adopted by rule of the State Board of Education under ORS 327.511.

(2) A public charter school shall report to the sponsor and the Department 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.

(3) Except for a public charter school that is not required to comply with ORS 338.035 (2)(a)(B) and (C) as provided by ORS 338.035 (2)(b), 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 school shall forward a copy of the annual audit to the Department of Education.

(4) After an audit conducted as provided by subsection (3) of this section, the following shall be forwarded to the sponsor:

(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.

(5) The sponsor of a public charter school that is organized as required by ORS 338.035 (2)(a)(B) and (C) may request at any time an acknowledgment from each member of the public charter school governing body that the member understands the standards of conduct and liabilities of a director of a nonprofit organization, as those standards and liabilities are described in ORS chapter 65.

(6) 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; 2011 c.313 §14; 2011 c.684 §1; 2013 c.265 §12]

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.

(f) Failure to maintain, for one 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)(a) 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.

(b) If the grounds for termination include failure to maintain financial stability or failure to maintain a sound financial management system, the sponsor and the public charter school may agree to develop a plan to correct deficiencies. Under a plan to correct deficiencies:

(A) The public charter school may attempt to correct any deficiencies related to financial stability or to a sound financial management system by a date identified by the sponsor, which may not be less than 60 days from the date of the notice;

(B) The proposed effective date of the termination may be extended to the date identified under subparagraph (A) of this paragraph;

(C) The sponsor may withhold up to 50 percent of the moneys owed to the public charter school while the public charter school is on the plan to correct deficiencies unless the withholding would create an undue hardship, as determined pursuant to rules of the State Board of Education; and

(D) The sponsor must hold in trust any moneys withheld under subparagraph (C) of this paragraph until:

(i) The public charter school complies with the plan to correct deficiencies, at which time the public charter school is entitled to the moneys held in trust; or

(ii) The public charter school fails to comply with the plan to correct deficiencies, at which time the charter is terminated and the public charter school forfeits any claim to the moneys held in trust.

(c) A deadline to correct deficiencies under paragraph (b)(A) of this subsection may be extended by mutual agreement of the sponsor and the public charter school.

(d) The public charter school governing body may request a hearing by the sponsor in relation to a termination of the charter or a plan to correct deficiencies.

(3) A public charter school governing body may appeal a decision of a sponsor under this section. The appeal shall be to:

(a) The State Board of Education if the sponsor is an entity described in ORS 338.005 (5)(a) or (c). The State Board of Education shall:

(A) Review only:

(i) The grounds for termination under this section as stated by the school district board; or

(ii) A plan to correct deficiencies; and

(B) Adopt by rule procedures to ensure a timely appeals process to prevent disruption of students' education.

(b) The circuit court pursuant to ORS 183.484 if the sponsor is the State Board of Education.

(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:

(a) 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.

(b) All student education records of the public charter school shall be transferred to the administrative office of the school district in which the public charter school was located.

(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; 2009 c.691 §12; 2011 c.94 §1; 2011 c.695 §7; 2013 c.265 §10; 2013 c.327 §3]

338.115 Applicability of laws; restrictions; powers; student diplomas and alternative certificates. (1) Statutes and rules that apply only 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 30.260 to 30.300 (tort claims);

(c) ORS 192.410 to 192.505 (public records law);

(d) ORS 192.610 to 192.690 (public meetings law);

(e) ORS chapters 279A, 279B and 279C (Public Contracting Code);

(f) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);

(g) ORS 326.565, 326.575 and 326.580 (student records);

(h) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);

(i) ORS 329.045 (academic content standards and instruction);

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

(k) The statewide assessment system developed by the Department of Education for mathematics, science and English under ORS 329.485 (2);

(L) ORS 337.150 (textbooks);

(m) ORS 339.119 (consideration for educational services);

(n) ORS 339.141, 339.147 and 339.155 (tuition and fees);

(o) ORS 339.250 (9) (prohibition on infliction of corporal punishment);

(p) ORS 339.326 (notice concerning students subject to juvenile court petitions);

(q) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of abuse and sexual conduct and training on prevention and identification of abuse and sexual conduct);

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

(s) ORS 659.850, 659.855 and 659.860 (discrimination);

(t) Any statute or rule that establishes requirements for instructional time provided by a school during each day or during a year;

(u) Statutes and rules that expressly apply to public charter schools;

(v) Statutes and rules that apply to a special government body, as defined in ORS 174.117, or a public body, as defined in ORS 174.109;

(w) Health and safety statutes and rules;

(x) Any statute or rule that is listed in the charter;

(y) ORS 336.840 (use of personal electronic devices); and

(z) This chapter.

(2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules that apply only 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 Constitu-

tion or section 5, Article I of the Oregon Constitution, or be religion based.

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

(b) For a public charter school that provides educational services under a cooperative agreement described in ORS 338.080, the public charter school is in compliance with the requirements of this subsection if the public charter school provides educational services under the cooperative agreement to at least 25 students, without regard to the school districts in which the students are residents.

(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, public university listed in ORS 352.002, 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; 2010 c.53 §2; 2011 c.94 §2; 2011 c.637 §117; 2011 c.682 §4; 2012 c.92 §9; 2013 c.98 §6; 2013 c.265 §13; 2013 c.267 §8]

Note 1: The amendments to 338.115 by section 8, chapter 267, Oregon Laws 2013, become operative July 1, 2014. See section 12, chapter 267, Oregon Laws 2013. The text that is operative until July 1, 2014, including amendments by section 9, chapter 92, Oregon Laws 2012, section 6, chapter 98, Oregon Laws 2013, and section 13, chapter 265, Oregon Laws 2013, is set forth for the user's convenience.

338.115. (1) Statutes and rules that apply only 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 30.260 to 30.300 (tort claims);

(c) ORS 192.410 to 192.505 (public records law);

(d) ORS 192.610 to 192.690 (public meetings law);

(e) ORS chapters 279A, 279B and 279C (Public Contracting Code);

(f) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);

(g) ORS 326.565, 326.575 and 326.580 (student records);

(h) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);

(i) ORS 329.045 (academic content standards and instruction);

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

(k) The statewide assessment system developed by the Department of Education for mathematics, science and English under ORS 329.485 (2);

(L) ORS 337.150 (textbooks);

(m) ORS 339.119 (consideration for educational services);

(n) ORS 339.141, 339.147 and 339.155 (tuition and fees);

(o) ORS 339.250 (12) (prohibition on infliction of corporal punishment);

(p) ORS 339.326 (notice concerning students subject to juvenile court petitions);

(q) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of abuse and sexual conduct and training on prevention and identification of abuse and sexual conduct);

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

(s) ORS 659.850, 659.855 and 659.860 (discrimination);

(t) Any statute or rule that establishes requirements for instructional time provided by a school during each day or during a year;

(u) Statutes and rules that expressly apply to public charter schools;

(v) Statutes and rules that apply to a special government body, as defined in ORS 174.117, or a public body, as defined in ORS 174.109;

(w) Health and safety statutes and rules;

(x) Any statute or rule that is listed in the charter;

(y) ORS 336.840 (use of personal electronic devices); and

(z) This chapter.

(2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules that apply only 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) A public charter school shall maintain an active enrollment of at least 25 students.

(b) For a public charter school that provides educational services under a cooperative agreement described in ORS 338.080, the public charter school is in compliance with the requirements of this subsection if the public charter school provides educational services under the cooperative agreement to at least 25 students, without regard to the school districts in which the students are residents.

(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, public university listed in ORS 352.002, 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.

Note 2: 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, section 3, chapter 53, Oregon Laws 2010, section 3, chapter 94, Oregon Laws 2011, section 118, chapter 637, Oregon Laws 2011, section 5, chapter 682, Oregon Laws 2011, section 10, chapter 92, Oregon Laws 2012, section 7, chapter 98, Oregon Laws 2013, section 14, chapter 265, Oregon Laws 2013, and section 9, chapter 267, Oregon Laws 2013, is set forth for the user's convenience.

338.115. (1) Statutes and rules that apply only 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 30.260 to 30.300 (tort claims);

(c) ORS 192.410 to 192.505 (public records law);

(d) ORS 192.610 to 192.690 (public meetings law);

(e) ORS chapters 279A, 279B and 279C (Public Contracting Code);

(f) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);

(g) ORS 326.565, 326.575 and 326.580 (student records);

(h) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);

(i) ORS 329.045 (academic content standards and instruction);

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

(k) ORS 329.496 (physical education);

(L) The statewide assessment system developed by the Department of Education for mathematics, science and English under ORS 329.485 (2);

(m) ORS 337.150 (textbooks);

(n) ORS 339.119 (consideration for educational services);

(o) ORS 339.141, 339.147 and 339.155 (tuition and fees);

(p) ORS 339.250 (9) (prohibition on infliction of corporal punishment);

(q) ORS 339.326 (notice concerning students subject to juvenile court petitions);

(r) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of abuse and sexual conduct and training on prevention and identification of abuse and sexual conduct);

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

(t) ORS 659.850, 659.855 and 659.860 (discrimination);

(u) Any statute or rule that establishes requirements for instructional time provided by a school during each day or during a year;

(v) Statutes and rules that expressly apply to public charter schools;

(w) Statutes and rules that apply to a special government body, as defined in ORS 174.117, or a public body, as defined in ORS 174.109;

(x) Health and safety statutes and rules;

(y) Any statute or rule that is listed in the charter;

(z) ORS 336.840 (use of personal electronic devices); and

(aa) This chapter.

(2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules that apply only 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) A public charter school shall maintain an active enrollment of at least 25 students.

(b) For a public charter school that provides educational services under a cooperative agreement described in ORS 338.080, the public charter school is in compliance with the requirements of this subsection if the public charter school provides educational services under the cooperative agreement to at least 25 students, without regard to the school districts in which the students are residents.

(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, public university listed in ORS 352.002, 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) In the charter of the school, a requirement that the school:

(A) Monitor and track student progress and attendance; and

(B) Provide student assessments in a manner that ensures that an individual student is being assessed and that the assessment is valid.

(f) Notwithstanding ORS 338.135 (7), a plan to ensure that:

(A) All superintendents, assistant superintendents and principals of the school are licensed to administer by the Teacher Standards and Practices Commission; and

(B) Teachers who are licensed to teach by the Teacher Standards and Practices Commission and who are highly qualified as described in the federal No Child Left Behind Act of 2001 (P.L. 107-110, 115 Stat. 1425) teach at least 95 percent of the school's instructional hours.

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

(A) If the sponsor is a school district, within the school district that is the sponsor and as specified in the charter of the school; or

(B) If the sponsor is the State Board of Education, at a central office located in Oregon and as specified in the charter of the school.

(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 meetings at least twice a week 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.

(m) A plan to provide, at the time of a student's enrollment, written notice to the sponsor and, if different, to the school district where the student is a resident. Notification must be provided within 10 days after enrollment and must include:

(A) The name, age and address of the student; and

(B) The name of the school in which the student was formerly enrolled.

(n) A plan to provide, at the time of a student's withdrawal for a reason other than graduation from high school, written notice to the sponsor and, if different, to the school district where the student is a resident. Notification must be provided within 10 days after withdrawal and must include:

(A) The name, age and address of the student;

(B) The reason the student no longer is enrolled and, if applicable, the name of the school in which the student will enroll, if known to the virtual public charter school; and

(C) The last day on which the student was enrolled at the virtual public charter school.

(o) An agreement to provide a student's education records to the student's resident school district or to the sponsor, upon request of the resident school district or sponsor.

(2) For a virtual public charter school:

(a) A person who is a member of the school district board for the sponsor of the virtual public charter school may not be:

(A) An employee of the virtual public charter school;

(B) A member of the governing body of the virtual public charter school; or

(C) An employee or other representative of any third-party entity with which the virtual public charter school has entered into a contract to provide educational services.

(b) A person who is a member of the governing body of the virtual public charter school may not be an employee of a third-party entity with which the virtual public charter school has entered, or intends to enter, into a contract to provide educational services.

(3) 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:

(a) No employee or member of the governing board of the third-party entity may attend an executive session of the school district board of the school district that is the sponsor of the virtual public charter school;

(b) An employee of the virtual public charter school may not promote the sale or benefits of private supplemental services or classes offered by the third-party entity;

(c) The educational services provided by the third-party entity must be consistent with state standards and requirements, and must be changed on the same timelines that changes are imposed on the nonvirtual public charter schools of this state; and

(d) 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.

(4)(a) The sponsor or a member of the public may request access to any of the documents described in subsections (1) and (3)(d) of this section that are public records, as provided by ORS 192.410 to 192.505.

(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 (3)(d) of this section that are public records, as provided by ORS 192.410 to 192.505. The documents may be provided electronically. [2009 c.691 §8; 2010 c.72 §1; 2011 c.649 §1; 2011 c.684 §2]

338.125 Student enrollment; nonresident students; appeals; written notices. (1) Student enrollment in a public charter school is voluntary.

(2)(a) All students who reside in the school district in which the public charter school is located are eligible for enrollment

in the public charter school if space is available.

(b) Students who do not reside in the school district in which the public charter school is located are eligible for enrollment in the public charter school if space is available and subject to subsection (4) of this section.

(c) A public charter school may not limit student enrollment based on race, religion, sex, sexual orientation, ethnicity, national origin, disability, the terms of an individualized education program, income level, proficiency in the English language or athletic ability.

(3)(a) Except as provided by paragraph (b) of this subsection, if the number of applications from students who reside in 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.

(b) 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 who:

(A) Were enrolled in the school in the prior year;

(B) Have siblings who are presently enrolled in the school and who were enrolled in the school in the prior year; or

(C) If the public charter school is a party to a cooperative agreement described in ORS 338.080, reside in the school district that is the sponsor of the public charter school or in a school district that is a party to the cooperative agreement.

(4)(a) A student who wishes to enroll in a virtual public charter school does not need the approval of the school district where the student is a resident before the student enrolls in the virtual public charter school. If a student wishes to enroll in a virtual public charter school, the parent, legal guardian or person in parental relationship with the student must provide the following notices to the school district where the student is a resident:

(A) Intent to enroll the student in a virtual public charter school; and

(B) Enrollment of the student in a virtual public charter school.

(b)(A) Notwithstanding paragraph (a) of this subsection and ORS 339.133, if more than three percent of the students who reside in a school district are enrolled in virtual public charter schools that are not sponsored by the school district, a student who is a resident of the school district must receive approval from the school district before enrolling in a virtual public charter school. A school district is not required to give approval if more than three percent of the students who reside in the school district are enrolled in virtual public charter schools that are not sponsored by the school district.

(B) For the purpose of determining whether more than three percent of the students who reside in the school district are enrolled in virtual public charter schools that are not sponsored by the school district, the school district board shall include any students who:

(i) Reside in the school district, regardless of whether the students are considered residents of different school districts as provided by ORS 339.133 (5); and

(ii) Are enrolled in virtual public charter schools that are not sponsored by the school district.

(C) Students who reside in the school district, regardless of whether the students are considered residents of different school districts as provided by ORS 339.133 (5), must receive approval from the school district before enrolling in a virtual public charter school if the limit described in subparagraph (A) of this paragraph has been met.

(c) If the school district does not give approval under paragraph (b) of this subsection, the school district must provide information to the parent, legal guardian or person in parental relationship with the student about the right to appeal the decision to the State Board of Education and other online options available to the student. If an appeal is made to the State Board of Education, the board must issue a decision within 30 days of the submission of the appeal.

(5) Within 10 days of a student's enrollment in a public charter school, the public charter school shall provide written notice of the student's enrollment to the school district in which the public charter school is located if the student does not reside in the school district where the public charter school is located.

(6) Within 10 days of receiving the notice described in subsection (5) of this section, the school district in which the public charter school is located shall provide to the student's parent, legal guardian or person in parental relationship written information about:

(a) The school district's responsibility to identify, locate and evaluate students enrolled in the public charter school to determine which students may be in need of special education and related services as provided by ORS 338.165; and

(b) The methods by which the school district may be contacted to answer questions

or provide information related to special education and related services.

(7) When a student described in subsection (5) of this section withdraws from a public charter school for a reason other than graduation from high school, the school district in which the public charter school is located shall:

(a) Provide to the school district in which the student resides written notice that the student has withdrawn.

(b) Provide to the student's parent, legal guardian or person in parental relationship written information about:

(A) The responsibility of the school district in which the student resides to identify, locate and evaluate students who reside in the school district to determine which students may be in need of special education and related services as provided by ORS 338.165; and

(B) The methods by which the school district in which the student resides may be contacted to answer questions or provide information related to special education and related services.

(8)(a) If a student described in subsection (5) of this section enrolls in a public charter school and has an individualized education program, the school district in which the public charter school is located must implement the individualized education program and follow the terms of the individualized education program until a new individualized education program is developed.

(b) If a student described in subsection (5) of this section withdraws from a public charter school and has an individualized education program, the school district in which the student resides must implement the individualized education program and follow the terms of the individualized education program until a new individualized education program is developed.

(9) When a virtual public charter school enrolls a student or a student no longer is enrolled in a virtual public charter school, the virtual public charter school shall provide the written notices described in ORS 338.120 (1)(m) and (n) to the school district where the student is a resident.

(10) A public charter school may conduct fund-raising activities but 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; 2011 c.718 §§23,24]

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 unless:

(A) The employee is an administrator who does not have any teaching responsibilities; and

(B) Both the executive officer of the sponsor and the public charter school governing body approve employment by the for-profit entity. The executive officer or governing body may choose to grant approval under this subparagraph:

(i) For all employees of the for-profit entity who meet the description in subparagraph (A) of this paragraph;

(ii) Based on the job categories of the employees who meet the description in subparagraph (A) of this paragraph; or

(iii) On a case-by-case basis for each employee who meets the description in subparagraph (A) of this paragraph.

(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) An entity described in ORS 338.005 (5) 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; 2011 c.695 §8; 2013 c.327 §6]

Note: The amendments to 338.135 by section 7, chapter 327, Oregon Laws 2013, become operative July 1, 2018. See section 8, chapter 327, Oregon Laws 2013. The text that is operative on and after July 1, 2018, is set forth for the user's convenience.

338.135. (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) An entity described in ORS 338.005 (5) may not waive the right to sponsor a public charter school in a collective bargaining agreement.

338.145 Responsibility for student transportation services; costs. (1) The public charter school shall be responsible for providing transportation to students who re-

side 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 Distributions of State School Fund amounts; grants available to charter schools. (1)(a) 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.

(b)(A) For the purpose of determining the amounts to be distributed from the State School Fund to a school district in which a public charter school is located, the district extended ADMw described in ORS 327.013 shall be determined by:

(i) Separately calculating the extended ADMw for students at the public charter school and the extended ADMw for students at nonchartered public schools in the school district; and

(ii) Adding the extended ADMw for students at the public charter school and the extended ADMw for students at nonchartered public schools in the school district.

(B) Except as provided in subparagraph (A) of this paragraph:

(i) All other calculations made under ORS 327.013 shall be made as though the students enrolled at a public charter school were students enrolled at the public schools in the school district in which the public charter school is located; and

(ii) All references to the district extended ADMw shall be based on the calculation made under subparagraph (A)(ii) of this paragraph.

(C) All amounts to be distributed from the State School Fund to public charter schools shall first be distributed to the school district in which the public charter school is located.

(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 or an institution of higher education and that is 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 subsection (2) or (3) of this section to:

(a) For a public charter school sponsored by a school district, 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;

(b) For a public charter school sponsored by the State Board of Education, the Department of Education; or

(c) For a public charter school sponsored by an institution of higher education, the institution of higher education.

(6) The department may use any moneys 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; 2011 c.684 §7; 2011 c.695 §9]

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)(a) The school district in which a public charter school is located shall identify, locate and evaluate students enrolled in the public charter school to determine which students may be in need of special education and related services.

(b) The school district in which a public charter school is located:

(A) Shall receive funding from the State School Fund as provided by this section for students who are eligible for special education and related services and who are enrolled in the public charter school; and

(B) Is eligible to receive high cost disabilities grants as provided by ORS 327.348 for students who are enrolled in the public charter school.

(c) Students who are eligible for special education and related services shall be considered students of the school district in which the public charter school is located for purposes of data collection and reporting.

(2) 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 General Purpose Grant per ADMw for the school district in which the public charter school is located, 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 General Purpose Grant per ADMw for the school district in which the public charter school is located, as calculated under ORS 327.013, for students who are enrolled in grades 9 through 12.

(3) If the State Board of Education is the sponsor of a public charter school, the school district in which the public charter school is located, 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 State Board of Education.

(4) Notwithstanding subsection (2) 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 (2) of this section.

(5) Payments under this section must be made within 10 days after a school district receives payment from the State School Fund pursuant to ORS 327.095. [1999 c.200 §21; 2009 c.698 §19; 2011 c.443 §3]

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

338.185 [1999 c.200 §23; repealed by 2011 c.313 §25]

338.990 [Repealed by 1965 c.100 §456]