

CHAPTER 265

AN ACT

HB 2150

Relating to public charter schools; creating new provisions; and amending ORS 338.025, 338.035, 338.045, 338.055, 338.065, 338.075, 338.095, 338.105 and 338.115.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 338.035 is amended to read:

338.035. (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.

[(3)] (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 [at least 120 days prior to the date upon which the public charter school would begin operating.] **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. [However, it is recommended that] 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.**

[(4)] (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.

[(5)(a)] (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.

[(6)(a)] (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.

[(7)] (8) An entity described in ORS 338.005 (5) may not approve a **proposal for a** public charter school [proposal] that is affiliated with a nonpublic sectarian school or a religious institution.

SECTION 2. ORS 338.045 is amended to read:

338.045. (1) An applicant seeking to establish a public charter school shall submit a written proposal to a school district board.

(2) The proposal shall include, but need not be limited to:

- (a) The identification of the applicant;
- (b) The name of the proposed public charter school;
- (c) A description of the philosophy and mission of the public charter school;
- (d) A description of the curriculum of the public charter school;
- (e) A description of the expected results of the curriculum and the verified methods of measuring and reporting objective results that will show the growth of knowledge of students attending the public charter school and allow comparisons with public schools;
- (f) The governance structure of the public charter school;
- (g) The projected enrollment to be maintained and the ages or grades to be served;
- (h) The target population of students the public charter school will be designed to serve;
- (i) A description of any distinctive learning or teaching techniques to be used in the public charter school;
- (j) The legal address, facilities and physical location of the public charter school, if known;

(k) A description of admission policies and application procedures;

(L) The statutes and rules that shall apply to the public charter school;

(m) The proposed budget and financial plan for the public charter school and evidence that the proposed budget and financial plan for the public charter school are financially sound;

(n) 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.

SECTION 3. ORS 338.055 is amended to read:

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.

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

[(2)] (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 [(1)] (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 extent to which the proposal addresses the information required in ORS 338.045;]

(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; and

(h) Whether there are alternative arrangements for students and for teachers and other school employees who choose not to attend or who choose not to be employed by the public charter school.

[(3)] **(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 *[(1)]* **(2)** of this section.

[(4)] **(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. *If the proposal is not approved[,] 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 *[20]* **30** days after receiving it. If the proposal is not approved, the applicant may:

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

[(b)] **(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.

[(5)] **(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.

[(6)] **(7)** *[A proposal to convert]* 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.

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

[(8)] **(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.

SECTION 4. ORS 338.055, as amended by section 10, chapter 695, Oregon Laws 2011, is amended to read:

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.

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

[(2)] (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 [(1)] (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 extent to which the proposal addresses the information required in ORS 338.045;]

(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; and

(h) Whether there are alternative arrangements for students and for teachers and other school employees who choose not to attend or who choose not to be employed by the public charter school.

[(3)] (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 [(1)] (2) of this section.

[(4)] (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. [If the proposal is not approved,]; 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 [20] 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.

[(5)] (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.

~~[(6)] (7)~~ *[A proposal to convert]* **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.

~~[(7)] (8)~~ Entities described in ORS 338.005 (5) may not charge any fee to applicants for the proposal process.

~~[(8)] (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.

SECTION 5. ORS 338.075, as amended by section 4, chapter 91, Oregon Laws 2012, is amended to read:

338.075. (1) If a school district board *[does not approve]* **disapproves** a proposal to *[start]* **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 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.

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

[(a) May recommend to the applicant and school district board revisions to the proposal.]

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

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

~~[(4)] (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.

~~[(5)(a)] (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 ~~[(2)(b) to (h)]~~ **(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.

SECTION 6. ORS 338.075, as amended by section 29, chapter 718, Oregon Laws 2011, and section 5, chapter 91, Oregon Laws 2012, is amended to read:

338.075. (1) If a school district board [*does not approve*] **disapproves** a proposal to [*start*] **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.**

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

[(a) May recommend to the applicant and school district board revisions to the proposal.]

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

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

[(4)] (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.

[(5)(a)] (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.

SECTION 7. The amendments to ORS 338.035, 338.045, 338.055 and 338.075 by sections 1 to 6 of this 2011 Act first apply to proposals received on or after the effective date of this 2013 Act.

SECTION 8. ORS 338.065 is amended to read:

338.065. (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 *[(4)] (3)*, the State Board of Education shall become the sponsor of the public charter school.

(c) Pursuant to ORS 338.075 *[(5)] (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 spon-

sor 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 *[or exclude elements of the proposal from the charter]*. The charter, when duly executed by the sponsor and the public charter school governing body, shall act as the legal authorization for the establishment of the public charter school. The charter shall be legally binding on both the sponsor and the public charter school governing body.

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

[(e)] **(d)** Within *[20]* **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.

[(f)] **(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 renewal of the charter unless the sponsor and the public charter school governing body agree to an extension of the time period.

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

[(h)] **(g)** Notwithstanding paragraphs (b) to *[(g)]* **(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 *[(g)]* **(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)(g)]* **(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)(g)]* **(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.

SECTION 9. The amendments to ORS 338.065 by section 8 of this 2013 Act first apply to requests for renewal submitted on or after the effective date of this 2013 Act.

SECTION 10. ORS 338.105 is amended to read:

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

(a) Failure to meet the terms of an approved charter or this chapter.

(b) Failure to meet the requirements for student performance stated in the charter.

(c) Failure to correct a violation of a federal or state law that is described in ORS 338.115.

(d) Failure to maintain insurance as described in the charter.

(e) Failure to maintain financial stability.

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

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

(3) A public charter school governing body may appeal 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 the grounds for termination under this section as stated by the school district board; 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.

SECTION 11. The amendments to ORS 338.105 by section 10 of this 2013 Act first apply to termination decisions that are made on or after the effective date of this 2013 Act.

SECTION 12. ORS 338.095 is amended to read:

338.095. (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.

[(5)] **(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.

SECTION 13. ORS 338.115, as amended by section 9, chapter 92, Oregon Laws 2012, is amended to read:

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);**
- [(e)] **(f)** ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);
- [(f)] **(g)** ORS 326.565, 326.575 and 326.580 (student records);
- [(g)] **(h)** ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);
- [(h)] **(i)** ORS 329.045 (academic content standards and instruction);
- [(i)] **(j)** ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative certificate);
- [(j)] **(k)** The statewide assessment system developed by the Department of Education for mathematics, science and English under ORS 329.485 (2);
- [(k)] **(l)** ORS 337.150 (textbooks);
- (m) ORS 339.119 (consideration for educational services);**
- [(L)] **(n)** ORS 339.141, 339.147 and 339.155 (tuition and fees);
- [(m)] **(o)** ORS 339.250 (12) (prohibition on infliction of corporal punishment);
- [(n)] **(p)** ORS 339.326 (notice concerning students subject to juvenile court petitions);
- [(o)] **(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);
- [(p)] **(r)** ORS chapter 657 (Employment Department Law);

[(q)] **(s)** ORS 659.850, 659.855 and 659.860 (discrimination);

[(r)] **(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;

[(s)] **(w)** Health and safety statutes and rules;

[(t)] **(x)** Any statute or rule that is listed in the charter; **and**

[(u)] *ORS 339.119 (consideration for educational services); and*

[(v)] **(y)** 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.

SECTION 14. ORS 338.115, as amended by section 7, chapter 839, Oregon Laws 2007, section 12, chapter 50, Oregon Laws 2008, 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, and section 10, chapter 92, Oregon Laws 2012, is amended to read:

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);**

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

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

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

[(h)] (i) ORS 329.045 (academic content standards and instruction);

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

[(j)] (k) ORS 329.496 (physical education);

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

[(L)] (m) ORS 337.150 (textbooks);

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

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

[(n)] (p) ORS 339.250 (12) (prohibition on infliction of corporal punishment);

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

[(p)] (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);

[(q)] (s) ORS chapter 657 (Employment Department Law);

[(r)] (t) ORS 659.850, 659.855 and 659.860 (discrimination);

[(s)] (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;**

[(t)] (x) Health and safety statutes and rules;

[(u)] (y) Any statute or rule that is listed in the charter; **and**

[(v)] *ORS 339.119 (consideration for educational services); and*

[(w)] (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.

SECTION 15. ORS 338.025 is amended to read:

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 [(u)] (x), 338.120, 338.125 (4), 338.135 (2)(b) or 339.122.

SECTION 16. ORS 338.025, as amended by section 8, chapter 839, Oregon Laws 2007, section 14, chapter 50, Oregon Laws 2008, 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, and section 27, chapter 718, Oregon Laws 2011, is amended to read:

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 [(v)] (y), 338.120, 338.125 (4), 338.135 (2)(b) or 339.122.

Approved by the Governor June 4, 2013
 Filed in the office of Secretary of State June 4, 2013
 Effective date January 1, 2014