

Relating to public online education; amending ORS 338.025, 338.120 and 338.125; repealing sections 13c and 17, chapter 691, Oregon Laws 2009; and declaring an emergency.

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

**SECTION 1.** ORS 338.120, as amended by section 1, chapter 72, Oregon Laws 2010, is amended to read:

338.120. (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. The budget and accounting system of the school must be compatible with the budget and accounting system of the sponsor of the virtual public charter school and must comply with the requirements of the uniform budget and accounting system adopted by rule of the State Board of Education under ORS 327.511.

(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) *[All teachers of the school]* **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 student's resident school district and 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 [*student's resident school district and*] 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.**

[(2)] **(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)] (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)] (B) The annual operating expenses and profit margin of the third-party entity for providing educational services to a public charter school in this state.**

**[(3)(a)] (4)(a) The sponsor or a member of the public may request access to any of the documents described in subsections (1) and [(2)] (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 [(2)] (3)(d) of this section that are public records, as provided by ORS 192.410 to 192.505. The documents may be provided electronically.**

**SECTION 2.** ORS 338.125 is amended to read:

338.125. (1) Student enrollment in a public charter school [*shall be*] **is** voluntary.

**(2)(a) All students who reside within the school district where [*the*] a public charter school is located are eligible for enrollment at [*a*] **the** public charter school.**

**(b) Students who do not reside within the school district where a public charter school is located may enroll at the public charter school if space is available at the public charter school.**

**(3)(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) Notwithstanding paragraph (a) of this subsection, 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.**

**(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.**

**(4)(a) Except as provided by paragraph (b) of this subsection,** if the number of applications from students who reside within the school district exceeds the capacity of a program, class, grade level or building, the public charter school shall select students through an equitable lottery selection process.

**(b) [However,]** After a public charter school has been in operation for one or more years, the public charter school may give priority for admission to students:

**[(a)] (A)** Who were enrolled in the school in the prior year; or

**[(b)] (B)** Who have siblings who are presently enrolled in the school and who were enrolled in the school in the prior year.

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

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

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

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

**(7) When a virtual public charter school enrolls a student or a student no longer is enrolled at 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.**

**SECTION 3.** ORS 338.025, as amended by section 4, chapter 53, Oregon Laws 2010, and section 3, chapter 72, Oregon Laws 2010, 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 **section 6, chapter 72, Oregon Laws 2010, or ORS 338.115 (1)(a) to (t), 338.125 (3) or 338.135 (2)(b) [or 338.120].**

**SECTION 4.** 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, and section 4, chapter 72, Oregon Laws 2010, 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 **section 6, chapter 72, Oregon Laws 2010, or ORS 338.115 (1)(a) to (u), 338.125 (3) or 338.135 (2)(b) [or 338.120]**.

**SECTION 5.** If House Bill 3681 becomes law, ORS 338.125, as amended by section 2 of this 2011 Act, is amended to read:

338.125. (1) Student enrollment in a public charter school is voluntary.

(2)(a) All students who reside within the school district where a public charter school is located are eligible for enrollment at the public charter school.

(b) Students who do not reside within the school district where a public charter school is located may enroll at the public charter school if space is available at the public charter school.

(3)(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.

(4)(a) Except as provided by paragraph (b) of this subsection, if the number of applications from students who reside within the school district exceeds the capacity of a program, class, grade level or building, the public charter school shall select students through an equitable lottery selection process.

(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:

(A) Who were enrolled in the school in the prior year; or

(B) Who have siblings who are presently enrolled in the school and who were enrolled in the school in the prior year.

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

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

(7) When a virtual public charter school enrolls a student or a student no longer is enrolled at 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.

**SECTION 6. (1) Section 13c, chapter 691, Oregon Laws 2009, is repealed.**

**(2) Section 17, chapter 691, Oregon Laws 2009, as amended by section 5, chapter 72, Oregon Laws 2010, is repealed.**

**SECTION 7. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect July 1, 2011.**

Approved by the Governor August 2, 2011

Filed in the office of Secretary of State August 2, 2011

Effective date August 2, 2011

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