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Public Charter Schools

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581-026-0005

Definitions

- (1) “Applicant”: An applicant means any person or group that develops and submits a written proposal for a public charter school to a sponsor.
- (2) "District School Board": The board of directors of a common school district or a union high school district (ORS 332.002(1)).
- (3) “Public Charter School”: A 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 ORS 338.
- (4) “Sponsor”: A sponsor of a public charter school 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.
- (5) “Virtual Public Charter School”: A public charter school as defined in ORS 338.005(6) and 581-026-0300.

Stat. Auth.: ORS 338.025

Stats. Implemented: ORS [chapter](#) 338

Hist.:

Proposal Process

581-026-0050

Public Charter School Proposal Submission and Completeness

- (1) An applicant must submit proposals to the local school district board and the State Board of Education.
- (2) Upon receipt of a proposal from an applicant, the school district board will determine whether the proposal addresses, at least minimally, all of the required components as set out in ORS 338.045(2) and (3). Within 30 business days of the receipt of a proposal, the school district will notify the applicant as to the completeness of the proposal. A proposal that included, for example, a reprinting of the charter school statutes as its response to a required component, would not minimally address that component and would not be complete. A proposal that addressed a required component based on an incorrect budget assumption or in a manner that is unsatisfactory to the local school district would nonetheless be complete.
 - (a) If the district deems a proposal to be incomplete, the district must identify the specific elements that are not complete and provide a reasonable opportunity to complete the proposal.
 - (b) The district may disapprove the proposal if the applicant does not provide a proposal that is complete within the reasonable opportunity as provided in subparagraph (a) of this paragraph.
 - (c) For a proposal that has been disapproved under (b), the applicant may appeal the decision to the State Board of Education within 30 days of the disapproval. The State Board may review the proposal only for completeness and may determine that the proposal is:
 - (i) Not complete and uphold the decision of the school district board; or
 - (ii) Complete and remand the proposal to the school district for consideration.
- (3) The State Board of Education delegates to the Superintendent of Public Instruction or designee all administrative functions necessary or reasonable in order to conduct a timely appeal process. This delegation includes issuing a final order. An order issued by the Superintendent or

designee shall be considered an order in other than a contested case under ORS 183.484. The final order shall:

- (a) Uphold the decision of the school district board; or
- (b) Remand the proposal to the school district for consideration.
- (4) The Superintendent shall issue a final order within 30 days of receiving the notice of appeal from the applicant. The Superintendent shall send a copy of the final order to the applicant and the school district.

Stat. Auth.: ORS 338.025

Stats. Implemented: ORS 338.055

Hist.: ODE

581-026-0055

Public Charter School Proposal Review and Resubmission

(1) Within 60 days after the notification to the applicant of the school district's receipt of a completed proposal or a final order issued by the Superintendent of Public Instruction remanding the proposal to the school district for consideration, the school district board must hold a public hearing on the proposal in accordance with Oregon public meeting laws (ORS 192.610 through 192.695, 192.710, and 192.990).

(2) The school district board must evaluate the proposal in good faith using the following criteria:

- (a) 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) above;
- (b) Demonstrated financial stability of the public charter school, including the demonstrated ability of the school to have a sound financial management system in place at the time the school begins operating;
- (c) Capability of the applicant, in terms of support and planning, to provide students with comprehensive instructional programs;
- (d) Capability of the applicant, in terms of support and planning, to provide academically low achieving students with comprehensive instructional programs;
- (e) The adequacy of the information provided as required by ORS 338.45 (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 where the public charter school is located;
- (g) Whether there are arrangements for any 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.

(3) Within 30 days of the public hearing, the school district board must either approve or deny the proposal. Written notice of the decision must be sent to applicants. Such notice must include reasons and suggestions for remediation for all proposals that are denied. The school district board may provide a reasonable opportunity to resubmit the proposal.

(4) An applicant may amend and resubmit the proposal to the school district board.

(5) The local school board must approve or disapprove the resubmitted proposal within 30 days of receipt.

(6) An applicant whose resubmitted proposal is not approved by the local school board may request a review of that decision by the State Board of Education within 30 days of the disapproval. 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 OAR 581-026-0050 and 581-026-0055 in denying the proposal;

(b) The resubmitted proposal meets the criteria described in subsection (2) of this rule; and

(c) The reasons stated by the school district board for the denial are valid and align with the criteria described in subsection (2) of this rule.

(7) The State Board of Education delegates to the Superintendent of Public Instruction or designee all administrative functions necessary or reasonable in order to conduct a timely appeal process. This delegation includes issuing a final order. An order issued by the Superintendent or designee shall be considered an order in other than a contested case under ORS 183.484. The final order shall:

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

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

(8) The Superintendent shall issue a final order within 30 days of receiving the notice of appeal from the applicant. The Superintendent shall send a copy of the final order to the applicant and the school district.

Stat. Auth.: ORS 338.025

Stats. Implemented: ORS 338.055

Hist.: ODE

581-026-0060

Public Charter School Proposal Reconsideration

(1) Within 60 days of a final order issued by the Superintendent of Public Instruction remanding the resubmitted proposal to the school district for reconsideration, the school district board must evaluate the resubmitted proposal in good faith using the following criteria:

(a) 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 OAR 581-026-0055 (1);

(b) Demonstrated financial stability of the public charter school, including the demonstrated ability of the school to have a sound financial management system in place at the time the school begins operating;

(c) Capability of the applicant, in terms of support and planning, to provide students with comprehensive instructional programs;

(d) Capability of the applicant, in terms of support and planning, to provide academically low achieving students with comprehensive instructional programs;

(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 where the public charter school is located;

(g) Whether there are arrangements for any 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.
- (2) The school district board must either approve or deny the resubmitted proposal. Written notice of the decision must be sent to applicants. Such notice must include reasons and suggestions for remediation for all proposals that are denied.
- (3) An applicant whose resubmitted proposal that has been reconsidered by the school district board and disapproved, may request the State Board of Education review the decision under the procedure set out in OAR 581-026-0065.

581-026-0065

Appeal Process

- (1) An applicant whose resubmitted proposal to start a public charter school is disapproved following reconsideration may request the State Board of Education review the decision of the school district board within 30 days of the disapproval.
- (2) The State Board of Education delegates to the Superintendent of Public Instruction or designee all administrative functions necessary or reasonable in order to conduct review. This delegation to the Superintendent includes, but is not limited to:
 - (a) Determining the form, contents and timelines of the petition for review;
 - (b) Determining the records required for review and ordering the production of those records from either the applicant or school district board and establishing timelines for the production of those records;
 - (c) Requiring the applicant or school district board to respond to written or oral inquiries related to board review; and
 - (d) Determining at any time during the review process to reject a review request if in the judgment of the Superintendent, the applicant fails to reasonably comply with the administrative review processes of the Superintendent.
- (3) The Superintendent may review the decision only to determine whether:
 - (a) The school district board used the process required OAR 581-026-0060; and
 - (b) The proposal meets the criteria described in OAR 581-026-0060 (1); and
 - (c) The reasons stated by the school district board for the denial are valid and align with the criteria described in OAR 581-026-0060 (1).
- (10) Following a review described in (9), the State Board of Education may:
 - (a) Uphold the decision of the school district board to disapprove the resubmitted proposal;
 - (b) Remand the resubmitted proposal to the school district board for reconsideration if the school district board and the applicant agree to the remand; or
 - (c) Consider becoming the sponsor of the public charter school if the applicant agrees to the sponsorship.
- (4) At the conclusion of the administrative review process the Superintendent shall recommend in writing to the State Board to:
 - (a) Uphold the decision of the school district board to disapproved the resubmitted proposal; or
 - (b) Remand the resubmitted proposal to the school district board for reconsideration if the school district board and the applicant agree to the remand; or

(c) Sponsor the public charter school upon the terms in the proposal or upon such other terms specified.

(5) The State Board will consider the recommendation of the Superintendent and any other information it deems relevant and determine based on the requirements of ORS 338 to have the State Board sponsor the public charter school.

(a) If the State Board decides to consider the recommendation of the Superintendent to sponsor the public charter school, the State Board will complete a rigorous evaluation of the proposal as defined in State Board policy.

(6) The decision of the State Board to uphold the school district board decision to disapprove the resubmitted proposal will be based on substantial evidence in the record and will be made within 75 days of receipt by the State Board of the Superintendent's recommendation, unless extended for good cause.

(7) An applicant may seek judicial review of an order of the State Board of Education pursuant to ORS 183.482.

Stat. Auth.: ORS 326.051 & 338.025

Stats. Implemented: ORS 338.075

Hist.: ODE 13-2000, f. & cert. ef. 5-3-00; ODE 10-2002, f. & cert. ef. 4-12-02; ODE 5-2004(Temp), f. & cert. ef. 3-15-04 thru 9-1-04; Administrative Correction 9-28-04; ODE 21-2012, f. & cert. ef. 8-1-12

Charter Contract Development and Timelines

581-026-0100

Development and Execution of a Charter

(1) School district boards, the State Board, and Institutions of Higher Education that approve a proposal will be considered the sponsor of the public charter school defined in the proposal.

(2) An applicant whose proposal has been approved by the sponsor must, in cooperation with the sponsor, prepare and execute a charter that addresses, at a minimum, the information that is included in the proposal and:

(a) State any reasonable pre-opening requirements or conditions for the public charter school to ensure they meet all health, safety, and other legal requirements prior to opening and are prepared to open smoothly;

(b) State how the public charter school shall receive any state and federal funds distributed to districts other than the negotiated percentage of the charter school rate as required by ORS 338.155;

(c) Establish the performance standards under which the public charter school will be evaluated, using objective and verifiable measures of student achievement as the primary measure of school quality;

(d) Define the sources of academic data that will form the evidence base for ongoing and renewal evaluation;

(e) Include expectations for appropriate access, education support services, and coordination with the district in which the public charter school is located for students who may qualify for additional education services; and

(f) Include clear, measureable performance standards to judge the effectiveness of mission-specific performance measure and metrics that credibly demonstrate the public charter school's success in fulfilling its mission and serving its students.

(3) Notwithstanding subsection (2), an applicant and sponsor may agree to change elements of the proposal prior to including them in the charter and may agree to exclude elements of the proposal from the charter or to include new elements in the charter by mutual agreement of the school district board and the applicant.

(4) An initial charter may be in effect for no more than five years and may be renewed by the sponsor.

(5) The first renewal of a charter must be for the same number of years as the initial charter.

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

(7) A sponsor and the charter school governing body may amend a charter at any time by joint agreement.

Stat. Auth.: ORS 326.051

Stats. Implemented: Ch. 200, OL 1999 (SB 100)

Hist.: ODE 13-2000, f. & cert. ef. 5-3-00

581-026-0110

Public Charter School Mediation Provided by the State Board of Education

(1) 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.

(2) The State Board of Education delegates to the Superintendent of Public Instruction or designee all administrative functions necessary or reasonable in order to conduct mediation. The Superintendent or designee shall follow the procedures and timelines required by this rule. This delegation to the Superintendent or designee includes, but is not limited to:

(a) Determining the form, contents, and timelines of the mediation; and

(b) Determining the records required for mediation and ordering the production of those records from the school district board, applicant, or public charter school governing body and establishing timelines for the production of those records.

(3) If the school district board and the applicant are unable to reach an agreement following mediation as provided in this section of rule, the most recent proposal submitted without the change that was the subject of mediation shall be the proposal the school district board and applicant address in the next step of the proposal or chartering process following the point at which mediation began.

Stat. Auth.: ORS 338.025

Stats. Implemented: ORS 338.055

Hist.: ODE

581-026-0120

Charter School Development Timelines

(1) School district boards may develop timelines, policies and procedures for receiving, evaluating and approving or disapproving proposals within the parameters set out in ORS 338.

(2) School district board timelines, policies and procedures for receiving, evaluating and approving or disapproving proposals may require coordination of charter proposal development with the district's budgeting, student enrollment or operational timelines as necessary to demonstrate that the proposed charter school would meet the requirements of ORS 338.

(3) Upon request from a school district, the State Board of Education may extend any timeline required in ORS 338 if the school district board can demonstrate good cause for the extension.

Stat. Auth.: ORS 326.051

Stats. Implemented: Ch. 200, OL 1999 (SB 100)

Hist.: ODE 13-2000, f. & cert. ef. 5-3-00

581-026-0125

Timeline Extensions

Consistent with ORS 326.111, the State Board of Education delegates to the Superintendent of Public Instruction or the Superintendent's designee the authority to grant extensions of timelines. The Superintendent or designee may grant an extension, upon request from a school district, if the district has good cause for requesting an extension of the timeline for:

(1) The charter approval process under ORS 338.055; or

(2) The charter renewal process under ORS 338.065.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.111

Hist.: ODE 22-2000(Temp), f. & cert. ef. 7-27-00 thru 1-22-01; ODE 4-2001, f. & cert. ef. 1-29-01; ODE 1-2011, f. 1-31-11, cert. ef. 2-1-11

581-026-0130

Procedure to Waive Certain Provisions of the Charter School Law

(1) A public charter school may petition the State Board of Education for a waiver of any provision of ORS 388. The written petition must specify the reason(s) the charter school is seeking the waiver and any other relevant information.

(2) The public charter school must notify the sponsor if a waiver under this section is being considered. Waivers granted by the State Board to a charter school may require amending the charter under the provisions of OAR 581-026-0100 (7).

(3) The State Board of Education, upon receipt of a waiver petition, will review the petition and may grant the waiver upon a showing that approving the waiver would:

(a) Promote the development of programs by providers;

(b) Enhance the equitable access by underserved families to the public education of their choice;

(c) Extend the equitable access to public support by all students; or

(d) Permit the development of high quality programs of unusual cost.

(4) The State Board of Education may not waive any review provision under the Act or any provision under ORS 338.115(1).

Stat. Auth.: ORS 326.051

Stats. Implemented: Ch. 200, OL 1999(SB 100)

Hist.: ODE 13-2000, f. & cert. ef. 5-3-00; ODE 10-2002, f. & cert. ef. 4-12-02; ODE 5-2003(Temp), f. & cert. ef. 4-2-03 thru 9-15-03; Administrative correction 11-13-03

Finance

581-026-0200

Financial Management System

(1) A charter school applicant must include a description of a financial management system within the proposal submitted to the local school district board and the State Board of Education.

(2) A public charter school must have in place a financial management system at the time the school begins operation.

(3) A financial system used by 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;

(b) Complies with the requirements of the uniform budget and accounting system adopted by the State Board of Education under OAR 581-023-0035.

Stat. Auth.: ORS 338.025

Stat. Implemented: ORS 338

Hist.: ODE 11-2010, f. & cert. ef. 6-30-10; ODE 16-2011, f. & cert. ef. 12-15-11

581-026-0210

Annual Financial Reporting

(1) (a) A public charter school required to comply with ORS 338.035(2)(a)(B) and (C) 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.

(b) 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), must comply with OAR 581-026-0200 and must be included in the audit of the sponsoring district. The district audit for the public charter school must minimally include:

(A) An audit of all accounts and funds associated with the public charter school;

(B) A summary of significant accounting policies, cash and investments, and internal controls; and

(B) A statement of activities and 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.

(2) After an audit, the public charter school shall forward a copy of the annual audit to the Department of Education.

(3) After an audit, the public charter school shall forward the following 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. Stat. Auth.: ORS 338.025

Stat. Implemented: ORS 338.095

Hist.: ODE 11-2010, f. & cert. ef. 6-30-10; ODE 17-2011, f. 12-15-11, cert. ef. 1-1-12

Virtual Public Charter Schools

581-026-0300

Virtual Public Charter Schools

(1) All statutes and rules that apply to public charter schools also apply to virtual public charter schools. In addition, virtual public charter schools must also meet additional statutory requirements found in ORS Chapter 338.

(2) As used in ORS Chapter 338 and the rules of the State Board of Education, “virtual charter school” means a public charter school that provides online courses. An online course is a course in which:

- (a) Instruction and content are delivered primarily on a computer using the internet other electronic network or other technology such as CDs or DVDs;
- (b) The student and teacher are in different physical locations for a majority of the student’s instructional period while participating in the course;
- (c) The online instructional activities are integral to the academic program of the school as described in its charter; and
- (d) The student is not required to be located at the physical location of a school while participating in the course.

(3) Notwithstanding subsection (2) of this rule, “virtual public charter school” does not include a public charter school that primarily serves students in a physical location. A charter school is not a virtual public charter school if the schools meet all of the following requirements:

- (a) More than 50 percent of the core courses offered by the school are offered at a physical location and are not online courses;
- (b) More than 50 percent of the total number of students attending the school are receiving instructional services at a physical location and not in an online course; and
- (c) More than 50 percent of the minimum number of instructional hours required to be provided to students by the school under OAR 581-022-1620 during a school year are provided at a physical location and not through an online course.

(4) As used in this rule:

(a) “Core course” means:

- (A) English language arts including reading and writing;
- (B) Mathematics;
- (C) Science;
- (D) Social sciences including history, civics, geography and economics
- (E) Physical education;
- (F) Health
- (G) The arts;
- (H) World languages and
- (I) Career and technical education

(b) “Physical location” means a facility that is owned, leased or otherwise used by a school to deliver educational services. “Physical location” includes, but is not limited to, a school, library, public building or other physical space utilized by the school. “Physical location” does not include a student’s home.

(c) “Public charter school” has the meaning given that term in ORS 338.005.

(5) This rule does not apply to programs or courses offered by school districts, education service districts, alternative education programs or the Oregon Virtual School District.

Stat. Auth.: ORS 338.025

Stats. Implemented: ORS 338.005

Hist.: ODE 12-2010, f. & cert. ef. 6-30-10

581-026-0305

Virtual Public Charter School Student Enrollment

(1) As used in this rule:

(a) "Notice" means a written notice that is mailed, faxed, e-mailed or personally delivered by the party required to provide the notice.

(b) "Parent" means parent, legal guardian or person in parental relationship as defined in ORS 339.133.

(c) "Reside in a school district" means the school district in which the student's parent resides.

(d) "School district" means a school district in which more than three percent of the students who reside in the school district are enrolled in one or more virtual public charter schools.

(e) "Student" means a student who seeks to enroll in a virtual public charter school on or after August 2, 2011.

(f) "Virtual public charter school" is as that term is defined in OAR 581-026-0300.

(2) A parent must provide notice to the school district in which the parent resides that the parent intends to enroll a student in a virtual public charter school. Upon receiving the notice, a school district may choose to do nothing further until receiving notice the student is enrolled in the school or if more than three percent of the students who reside in the school district are enrolled in virtual public charter schools not sponsored by the district, the district must provide notice to the parent that the district:

(a) Approves the student for enrollment in the virtual public charter school; or

(b) Does not approve the student for enrollment in the virtual public charter school and provide a copy of this rule and OAR 581-026-0310 to the student and a list of two or more other online options available to the student.

(3) If a parent does not receive a notice of approval or disapproval from a school district under subsection (2) of this rule within 14 days of sending the notice of intent to enroll to the district, the student shall be deemed approved for enrollment by the district.

(4) A parent may appeal a decision of a school district to not approve a student for enrollment to the State Board of Education pursuant to OAR 581-026-0310.

(5) A virtual public charter school may only enroll a student if the school receives evidence the student's parent has notified the resident school district of the student's intent to enroll in the school. A school shall consider any of the following as evidence the resident school district received adequate notice:

(a) A copy of the notice of intent to enroll sent to the district by the parent;

(b) A notice of approval for enrollment from the district; or

(c) A copy of a final order issued by the Superintendent pursuant to OAR 581-026-0310 that finds that the student is approved for enrollment in the school.

(6) A virtual public charter school shall send a list of students to each school district in which a student who is enrolled in the school resides. The list shall be sent monthly when the virtual school is in session.

(7) If a school district chooses to not approve a student for enrollment in a virtual public charter school under this section, the district must have a policy that at a minimum includes the following:

(a) The annual, semiannual or other date that the school district used to calculate whether or not three percent or more of the students who reside within the district are enrolled in a virtual public charter school.

(b) The description of the data used by the school district to calculate the number of students who reside in the district and the number of students who are enrolled in virtual public charter schools. A school district is only required to use data that is reasonably available to the district including but not limited to:

- (A) The number of students enrolled in the schools of the school district;
 - (B) The number of students enrolled in public charter schools located in the school district;
 - (C) The number of students enrolled in virtual public charter schools;
 - (D) The number homeschooled students who reside within the district and who have registered with an education service district; and
 - (E) The number of students enrolled in private schools located within the school district.
- Stat. Auth.: ORS 338.025
Stats. Implemented: ORS 338.125
Hist.: ODE 11-2011(Temp), f. & cert. ef. 8-23-11 thru 2-19-12; ODE 19-2011, f. & cert. ef. 12-15-11

581-026-0310

Virtual Public Charter School Student Enrollment Appeal Procedure

- (1) The State Board of Education delegates to the Superintendent of Public Instruction or designee all administrative functions necessary or reasonable in order to conduct a timely appeal process. This delegation includes issuing a final order. An order issued by the Superintendent or designee shall be considered an order in other than a contested case under ORS 183.484.
- (2) A parent may appeal a decision of a school district to not approve enrollment of a student in a virtual public charter school under OAR 581-026-0305 by sending a notice of appeal in writing by mail, fax or e-mail or by personally delivering a copy to the Superintendent of Public Instruction. The notice must be received by the Superintendent within 10 days of the date on which the parent received notice from the district, the district did not approve enrollment of a student in a virtual public charter school. The parent must also provide a copy of the notice of appeal and any other supporting documents included with the notice to the school district prior to sending the notice of appeal to the Superintendent or within 24 hours of when the parent sent or delivered the notice of appeal to the Superintendent.
- (3) The notice of appeal must include:
 - (a) The parent and student's name and contact information.
 - (b) The name of the resident school district.
 - (c) The name of the virtual public charter school in which the student wants to enroll.
 - (d) A copy of the notice of intent to enroll provided by the parent to the school district.
 - (e) A copy of the notice of disapproval of enrollment received by the parent from the school district.
 - (f) The reason for the appeal and any supporting documents including evidence the parent would like considered as part of the appeal.
- (4) A school district upon receiving a notice of appeal from a parent may file a reply to the notice with the Superintendent. The reply must be received by the Superintendent within 10 days of when the school district received a copy of the notice of appeal from the parent. The school district shall provide a copy of the reply and any supporting documents included with the reply to the parent.
- (5) The Superintendent shall overturn the decision of the school district to not approve the enrollment of the student if the Superintendent determines that:
 - (a) The school in which the student intends to enroll is not a virtual public charter school.
 - (b) The resident school district does not have more than three percent of the resident students of the district enrolled in virtual public charter schools not sponsored by the district.

(c) The parent did not receive the notice of disapproval from the district within 14 days of when the parent sent the district the notice of intent to enroll.

(6) The Superintendent may consider the following in deciding whether to uphold or overturn a decision of the school district to not approve the enrollment of a student:

(a) The health and safety of the student.

(b) The student's educational needs and interests.

(c) The availability of other online options to the student.

(d) Any other information that the Superintendent deems relevant to the decision.

(7) The Superintendent shall issue a final order within 30 days of receiving the notice of appeal from the parent. The Superintendent shall send a copy of the final order to the parent, the school district and the virtual public charter school.

Stat. Auth.: ORS 338.025

Stats. Implemented: ORS 338.125

Hist.: ODE 11-2011(Temp), f. & cert. ef. 8-23-11 thru 2-19-12; ODE 19-2011, f. & cert. ef. 12-15-11

Renewal

581-026-0400

Process to Renew Charter

(1) A public charter school governing body must request renewal of the charter (contract) by the sponsor in writing at least 180 days before expiration of the charter.

(2) When a sponsor has received a written request from a public charter school governing body, the sponsor must schedule and hold a public hearing on the renewal request within 45 days from the receipt of the request for renewal.

(3) Within 30 days after the public hearing, the sponsor must either:

(a) Renew the charter; or

(b) State in writing the reasons for denying the renewal of the charter.

(4)(a) A sponsor must base its decision to renew or not renew a charter on a good faith evaluation of whether the charter school:

(A) Is in compliance with state and federal laws;

(B) Is in compliance with the terms of the prior charter;

(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 evidence that a sound financial management system described in the proposal submitted under ORS 338.045 and incorporated into the written charter was used; and

(E) Is in compliance with any renewal criteria specified in the previous charter, if any.

(b) As used in this section, "good faith evaluation" means an evaluation of all criteria required by this section resulting in a conclusion that a reasonable person would come to who is informed of the law and the facts before that person.

(5) The sponsor must base the evaluation described in subsection (4) of this rule 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.

- (6)(a) If the sponsor renews the charter, the sponsor and public charter school governing body shall negotiate in good faith a new charter within 90 days after the date on which the sponsor approved the renewal of the charter, unless both parties agree to an extension of time.
- (b) If the sponsor and the charter school governing body have not executed a new charter agreement within 90 days after the date on which the sponsor approved the renewal of the charter or an alternative date agreed to by both parties, the expiring charter shall remain in effect until a new charter is negotiated.
- (c) As used in this section, "negotiate in good faith" means to negotiate with an honest exchange of the facts of the matters under consideration with a view to obtaining agreement of each of the parties involved.
- (7) If the sponsor does not renew the charter, the public charter school governing body may address the reasons for nonrenewal and resubmit its request to the sponsor within 30 days after the date on which the sponsor notified the public charter school governing body of the decision not to renew the charter. If a sponsor receives a revised request under this section, the sponsor shall review the request using the process required by subsections (2) to (6) of this rule. A public charter school governing board may only submit a revised request once under this section unless otherwise specified by the sponsor.
- (8) Notwithstanding subsections (1) to (7) of this rule, 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 subsections (1) to (7) of this rule.
- (9) The State Board of Education delegates to the Superintendent of Public Instruction or designee all administrative functions necessary or reasonable in order to determine if the charter of a school sponsored by the state board should be renewed. The Superintendent or designee shall follow the procedures and timelines required by this rule. This delegation to the Superintendent or designee includes, but is not limited to:
- (a) Determining the form, contents, and timelines of the renewal;
 - (b) Determining the records required for determining the renewal and ordering the production of those records from the public charter school governing body and establishing timelines for the production of those records;
 - (c) Requiring the charter school governing body to respond to written or oral inquiries related to the sponsorship;
 - (d) Delegating the sponsorship function to Department of Education staff or a hearings officer to conduct a hearing and to issue a proposed order; and
 - (e) Issuing a final order.
- (10) If the sponsor does not renew the charter based on the revised request for renewal submitted under subsection (7) of this rule, the public charter school governing body may:
- (a) If the sponsor is a school district, appeal the decision of the sponsor to the State Board of Education under OAR 581-026-0405.
 - (b) If the sponsor is the State Board of Education, seek judicial review of the final order under ORS 183.484.

Stat. Auth.: ORS 338.025

Stats.. Implemented: ORS 338.065

Hist.: ODE 9-2008, f. & cert. ef. 3-21-08; ODE 15-2009(Temp), f. & cert. ef. 12-10-09 thru 6-8-10; Administrative correction 6-25-10; ODE 11-2010, f. & cert. ef. 6-30-10

581-026-0405

Appeal of Sponsor's Decision Not to Renew a Charter

(1) Within 30 days of receiving notice from a sponsor that the sponsor has decided not to renew the charter (contract) based on a revised request for renewal, a public charter school governing body may request the State Board of Education review the decision by the sponsor not to renew a charter. Any notice of a request for State Board review must be made in writing and be delivered to the State Board of Education and the business address of the sponsor.

(2) The decision of a sponsor not to renew a charter must be based on a good faith evaluation of the factors set out in ORS 338.065(6) and must utilize the process set out in 338.065(4) and OAR 581-026-0400.

(3) The State Board, State Superintendent or designee will review the decision of a sponsor not to renew a charter for compliance with the requirements of subsection (2) of this rule.

(4) The State Board of Education delegates to the Superintendent of Public Instruction or designee all administrative functions necessary or reasonable in order to conduct a timely review of the decision of the sponsor to not renew a charter. This delegation to the Superintendent includes, but is not limited to:

(a) Determining the form, contents, and timelines of the petition for review;

(b) Determining the records required for review and ordering the production of those records from either the public charter school governing body or school district board and establishing timelines for the production of those records;

(c) Requiring the public charter school governing body or school district board to respond to written or oral inquiries related to board review;

(d) Delegating the review function to department staff or a hearings officer conduct the review and issue a proposed order; and

(e) Issuing a final order.

(5) If the State Superintendent or designee finds that the sponsor made the decision to not renew a charter based on a good faith evaluation of the factors set out in ORS 338.065(6) and utilized the process set out in 338.065(4), a final order will be issued to uphold the decision of the sponsor.

(6) If the State Superintendent or designee finds that the sponsor did not make the decision to not renew a charter based on a good faith evaluation of the factors set out in ORS 338.065(6), did not utilize the process set out in 338.065(4) or both, a final order will be issued to order the sponsor to reconsider the request for renewal utilizing the process and requirements set out in OAR 581-026-0400.

(7) The State Superintendent or designee shall issue the final order within 60 days from the receipt of the request for review, unless both parties agree to a different timeline.

(8) If a school district on reconsideration ordered under subsection (6) of this rule does not renew the charter, the sponsor's decision may be appealed under the provisions of ORS 183.484.

(9) A charter school that requested renewal of its charter by the sponsor in writing at least 180 days before expiration of the charter shall remain open under the terms of its charter, unless otherwise agreed to by the charter school and the sponsor, until one or more of the following occurs:

(a) The sponsor and the charter school execute a new charter.

(b) The sponsor denies the renewal of the charter and the time period for the charter school to resubmit a renewal request or appeal the decision to the State Board of Education has lapsed.

(c) The State Superintendent or designee issues a final order to uphold the decision of the sponsor to not renew.

(d) The State Superintendent or designee issues a final order that orders the school district to reconsider the decision to non-renew and the school district again notifies the charter school of a nonrenewal.

(e) A court orders the closure of the school.

(f) The charter of the school is terminated under ORS 338.105 and OARs 581-026-0500 and 581-026-0505.

Stat. Auth: ORS 326.051

Stats. Implemented: ORS 338.065

Hist.: ODE 9-2008, f. & cert. ef. 3-21-08

Termination

581-026-0500

Process for Sponsor to Terminate Charter

(1) A sponsor may terminate a charter for failure to:

(a) Meet the terms of the approved charter or any requirement of ORS Chapter 338, unless waived by the State Board of Education;

(b) Meet the requirements for student performance as established in the approved charter;

(c) Correct any violation of a federal or state law described in ORS 338.115;

(d) Maintain insurance as described in the approved charter;

(e) Maintain financial stability; or.

(f) If the charter is terminated on or after July 1, 2011, 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 338.065.

(2) A sponsor intending to terminate an approved charter must:

(a) Notify the public charter school governing body in writing at least 60 calendar days prior to the proposed effective date of the termination;

(b) Include in the notification the grounds for the termination; and

(c) Deliver the notice to the business address of the charter school.

(3) 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. The plan must be finalized and agreed upon within 30 days of the notice of termination. Under a plan to correct deficiencies:

(a) The sponsor shall identify a date at least 60 days from the date of the notice by which the public charter school may attempt to correct any deficiencies related to financial stability or to a sound financial management system. The deadline identified in the plan to correct deficiencies may be extended by mutual agreement of the sponsor and the public charter school;

(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 undue hardship. The sponsor shall indicate if it plans to withhold moneys within 10 days of the notice of termination.

(A) For the purpose of this section, “undue hardship” shall be defined as a significant and limiting factor in the public charter school’s ability to continue operating through the duration of the plan to correct deficiencies under subparagraph (a) of this paragraph and project a positive ending fund balance for 2 consecutive fiscal years following compliance with the plan.

(B) A public charter school attempting to prove undue hardship must provide the following evidence to the sponsor within 20 days of the notice of termination:

- (i) A current balance sheet;
- (ii) A current profit and loss statement;
- (iii) All current financial statements showing assets and liabilities; and
- (iv) Any other financial documents requested by the sponsor related to the financial operation of the public charter school.

(C) The sponsor must evaluate the public charter school's evidence of undue hardship and determine whether or not to withhold any moneys within 10 days of receiving the evidence from the public charter school. If the sponsor plans to withhold moneys, the sponsor shall indicate in the plan to correct deficiencies the terms of any withholding of moneys.

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

(A) 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

(B) 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.

(e) The sponsor shall apply any moneys withheld under subparagraph (c) of this paragraph if the public charter school is terminated to the debts of the public charter school. Any remaining moneys shall be returned to the state.

(4) The governing body of a public charter that has received notice from the sponsor of the sponsor's intent to terminate the charter may request a hearing by the sponsor related to a termination of the charter or a plan to correct deficiencies. Such a request must be made in writing and be delivered to the business address of the sponsor. Within 30 days of receiving the request for a hearing, the sponsor must provide the public charter school with the opportunity for a hearing.

(5) Following a notice of termination or completion of the plan to correct deficiencies, the sponsor of a public charter school shall make a final decision whether to terminate the public charter school.

(a) If the sponsor is a school district board or the State Board, the decision must be made at a public meeting.

(b) If the sponsor is an institution of higher education, the decision must be made as defined by the institution's rules or policy.

(6) If the sponsor reasonably believes that a public charter school is endangering the health or safety of the students enrolled in the public charter school, the sponsor may act to immediately terminate the approved charter and close the public charter school without providing the notice requirements set out in subsection (4) of this rule.

(7) The governing body of a public charter that is closed under the provisions of subsection (6) of this rule may request a hearing by the sponsor. Such a request must be made in writing and be delivered to the business address of the sponsor. Within 10 days of receiving the request for a hearing, the sponsor must provide the public charter school with the opportunity for a hearing on the termination.

(8) Nothing in this rule should be construed as limiting the ability of a sponsor and a public charter school to include in the charter a procedural requirement for alternative dispute resolution prior to invoking the termination process.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 338.105

Hist: ODE 19-2002, f. & cert. ef. 8-2-02; ODE 11-2010, f. & cert. ef. 6-30-10

581-026-0505

Process to Appeal Decision by Sponsor to Terminate Charter

(1) A public charter school governing body may request the State Board of Education review the decision to terminate a charter. The State Board of Education's review shall be limited to the grounds for termination as stated by the school district board or sponsor or a plan to correct deficiencies. Any notice of a request for State Board review must be made in writing and be delivered to the State Board of Education and the business address of the sponsor.

(2) The State Board of Education delegates to the Superintendent of Public Instruction or designee all administrative functions necessary or reasonable in order to conduct a timely review. This delegation to the Superintendent includes, but is not limited to:

(a) Determining the form, contents, and timelines of the petition for review;

(b) Determining the records required for review and ordering the production of those records from either the public charter school governing body or school district board and establishing timelines for the production of those records;

(c) Requiring the public charter school governing body or school district board to respond to written or oral inquiries related to board review;

(d) Delegating the review function to a hearings officer to hold a contested case hearing under ORS 183.411 through 183.470 and issue a proposed order; and

(e) Issuing a final order that may be appealed under the provisions of ORS 183.482.

(3) The State Board, or its designee, will where possible, issue its final order within 60 days from the sponsor's notification of intent to terminate as required in ORS 338.105(2). If it is not possible to issue the final order within 60 days, the charter school shall remain open pending issuance of the final order.

(4) The governing body of a public charter school that is closed under the provisions of ORS 338.105(4) may request the State Board of Education, or its designee, to review the decision of the sponsor to terminate the charter and close the public charter school. The State Board of Education, or its designee, will hold a hearing within 10 days of receiving the request for review. The review under this section will be accomplished under the provisions of subsection (2) of this rule and under the timelines set out in ORS 338.105(4) and, to the extent practicable, subsection (3) of this rule.

Stat. Auth: ORS 326.051

Stats. Implemented: ORS 338.105

Hist.: ODE 19-2002, f. & cert. ef. 8-2-02

581-026-0510

Process for Charter School Governing Body to Terminate Charter and Dissolve Public Charter School

The governing body of a public charter school may only terminate, dissolve or close an operating public charter school at the end of a semester. The governing body must provide the sponsor with notice of the intent to terminate the charter, and close and dissolve the public charter school, at least 180 days before the proposed date of termination, closure and dissolution. Such notice must be made in writing and be delivered to the business address of the sponsor.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 338.105

Hist.: ODE 19-2002, f. & cert. ef. 8-2-02

581-026-0515

Distribution of Assets of a Terminated or Dissolved Public Charter School

(1) Assets of a terminated, closed or dissolved public charter school that were obtained with public funds will be given to the State Board of Education. The State Board of Education, at its discretion, may disburse these assets to school districts or to other public charter schools.

(2) Assets of a terminated, closed or dissolved public charter that were obtained with grant funds will be disbursed according to the terms of the grant. If the grant is absent any reference to ownership or distribution of assets, assets of a terminated, closed or dissolved public charter school will be disbursed according to the provision set out in subsection (1) of this rule.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 338.015

Hist.: ODE 19-2002, f. & cert. ef. 8-2-02