



## Charter School Student Participation in Interscholastic Activities FAQ

[ORS 339.460](#) provides that students attending charter schools are allowed to participate in interscholastic activities in the district in which they reside. The Oregon State Board of Education (OSBE) has adopted administrative rules ([OAR 581-026-0005](#), [-0700](#), [-0710](#)) clarifying what is considered an interscholastic activity. Based on the rules, interscholastic activities for students in grades nine through twelve are those sanctioned by the Oregon School Activities Association (OSAA). For K-8 students, interscholastic activities include before- and after-school activities including “athletics, music, speech and other similar or related activities.” See [ORS 339.460\(1\)\(d\)](#) and [OAR 581-026-0005\(3\)](#).

The law also provides for a fee to be paid to the district by the charter school. Based on the language in rule, this is limited to a maximum of 5% of the district’s general purpose grant per ADMw. This is a 5% maximum regardless of the number of activities participated in. The district can charge an additional 5% for activities that require enrollment in a course for credit. Districts and charter schools should enter into agreements to establish the amount of the fee.

### What is included as an interscholastic activity?

[ORS 339.460\(1\)\(d\)](#) provides:

“Interscholastic activities” includes:

- a) For students in any grade from kindergarten through grade 12, athletics, music, speech and other similar or related activities.
- b) For students in any grade from kindergarten through grade eight, activities that are offered only before or after regular school hours and that may, but are not required to, involve interaction among other schools.

The related rules state:

“Interscholastic activities”: Athletics, music, speech and other similar or related activities:

- a) That are operated by the public charter school or school district;
- b) That are not part of the public charter school student’s comprehensive instructional program; and
- c) For students in grade kindergarten through grade eight, that are offered only before or after regular school hours; and
- d) For students in grade nine through grade 12, those sanctioned by the Oregon School Activities Association (OSAA). [OAR 581-026-0005\(3\)](#).

Based on these laws the definition of interscholastic activity depends on grade level. **Interscholastic activities for grades nine through twelve are OSAA activities. Interscholastic activities for grades kindergarten through grade eight are activities that meet the definition taking place before or after school.** The district and charter school can continue to make agreements to allow students to

participate in other activities that do not qualify as interscholastic activities under these rules, but these laws require that charter school students be allowed to participate in activities that meet the definition of interscholastic activities.

Some examples:

- A high school offers a band class, but the school does not participate in OSAA for band. At this high school, band would not be an interscholastic activity. At the same high school, drama is a class and participates in OSAA competition. At this school, drama would be an interscholastic activity.
- A middle school offers 8<sup>th</sup> grade choir as part of the school day. At this middle school, choir would not be an interscholastic activity.
- An elementary school offers a running club after school. At this elementary school, running club would be an interscholastic activity.

**What if a high school charter school offers some interscholastic activities, but not the same ones as the district school?**

For grades nine through twelve, if the charter school offers **any** interscholastic activities, then the charter school students are not allowed to participate in interscholastic activities with the district. [See OAR 581-026-0700\(2\)\(b\)](#). Additionally, if the charter school is a full member of OSAA, charter school students are not allowed to participate in interscholastic activities with the district.

**What about activities that OSAA does not regulate, such as robotics, FFA and middle school sports?**

This depends on the grade level and when the activity takes place. If it is for students in grades nine through twelve, non-OSAA activities are not included in interscholastic activities. Consequently, these laws do not require that charter school students be allowed to participate. However, these laws do not prohibit the district and charter school from coming to an agreement to allow participation.

If the students are in kindergarten through eighth grade, it depends on when the activity takes place. If it is before or after school, it would be an interscholastic activity and charter school students would be allowed to participate under these laws.

**In what situations can a district deny charter school students access to interscholastic activities?**

The law provides that a student cannot be denied if the following conditions are met:

- The charter school does not provide interscholastic activities and is not a full member of OSAA (for grades nine through twelve) [\(ORS 339.460\(2\)\)](#);
- Student lives within the attendance boundaries (including individual school attendance boundaries) [\(ORS 339.460\(7\)\)](#);
- All district eligibility requirements are met (except attendance requirements) [\(ORS 339.460\(5\)\)](#);
- Student has achieved a minimum score on a specified examination or met other alternative district requirements [\(ORS 339.460\(2\)\(b\)\)](#); and

- Student meets the “same responsibilities and standards of behavior and performance, including related class or practice requirements, as other students who participate” ([ORS 339.460\(6\)\(a\)](#)).

A district should only deny participation if one of these requirements is not met.

#### **Does the charter school student have to pass a test or have a certain GPA?**

The charter school student is required to score at or above the 23<sup>rd</sup> percentile on a State Board of Education-adopted examination, or meet alternative district-established requirements.

A certain GPA can be required if it is required of all students to participate in the specific interscholastic activity. If a charter school does not use a traditional grading system, the district and charter school should work together to identify appropriate academic requirements.

#### **Can a district give preference to district school-attending students or limit the number of charter school students that get to participate?**

No. Charter school students “must be allowed to participate ... in the same manner that a resident of the school district may participate.” [ORS 339.460\(6\)\(b\)](#). If a district has tryouts or auditions for spots, charter school students should be given a fair and equal opportunity to compete for those spots, just like those that attend district schools.

#### **How much do charter schools have to pay for students who participate?**

The district may charge “an annual fee that is equivalent to not more than five percent of the amount of the school district’s General Purpose Grant per ADMw.” [ORS 339.460\(3\)\(a\)\(A\)](#). This is a maximum of five percent, “regardless of the number of interscholastic activities the student participates in.” [OAR 581-026-0710\(1\)\(b\)](#).

If the interscholastic activity requires that a participating student also enroll in a course for credit, there can be an additional fee of up to five percent “per course for credit per year.” [OAR 581-026-0710\(2\)\(a\)](#). The amount of the fees should be established in an agreement between the district and the charter school.

Consider the following if an individual student in tenth grade participated in each of the following activities:

Activity	OSAA sanctioned	Course	District Required to Allow Participation?	Fee Allowed
Soccer	X		Yes	5%
Swimming	X		Yes	\$0 <sup>1</sup>
Chess Club			No, not OSAA <sup>2</sup>	Not governed by ORS 339.460 <sup>3</sup>

Band	X	Required	Yes, including course	5% plus additional 5%
Choir	X	Offered	Yes, but not the course	\$0 <sup>1</sup>
Drama		Required	No, not OSAA <sup>4</sup>	Not governed by ORS 339.460 <sup>3</sup>
Debate	X		Yes	\$0 <sup>1</sup>

1. Once the initial 5% is paid for an interscholastic activity, the district cannot charge for additional interscholastic activities that don't require a class.
2. While the district is not required to allow participation under ORS 339.460 and the accompanying rules, the district and the charter school can agree to allow participation.
3. A district and charter can agree to allow participation and can determine the fee involved (if any).
4. Drama is governed by OSAA, but many districts and high schools choose not to participate in OSAA competitions. These activities would not be considered interscholastic activities under the definition in the rules. In another district (or even another high school within the same district), drama could be an interscholastic activity.

**The General Purpose Grant per ADMw changes throughout the year, which number should be used to determine the maximum fee?**

[OAR 581-026-0710\(3\)](#) specifies that the “most recent published State School Fund Estimates on or before August 31 of the year in which the student participates” should be used.

**When should the fee be paid?**

[ORS 339.460\(3\)\(a\)\(A\)](#) calls it an “annual fee” and states that a charter school “is required to pay a fee ... only once per year per student.” [ORS 339.460\(3\)\(c\)](#). Districts and charter schools can agree to fee deadlines, but districts should be careful to require payment only once a year per child.

**Can I just split the student with the charter school, with both of us claiming part of the student for funding purposes? I'll get 1/7 of the ADM, which is way more than five percent.**

No. Oregon law requires that a student be listed on the active roll of the school “in which 50 percent or more of the student's time is scheduled and the student shall not be entered in the roll of other instructional units.” [OAR 581-023-0006\(4\)\(a\)](#). Charter schools and districts can enter into agreements to provide services for students, but in the case of courses required by interscholastic activities, the maximum fee allowed is five percent. These agreements are between the district and the charter school and do not involve the state.

**If the district has the student enrolled in a class, but the student is included on the charter school's active roll, how do we put them into our computer system?**

This can be tricky, particularly in situations where the two schools use different student information systems. Look for options such as “concurrent” or “exclude from state reporting.” These options are

going to depend on the systems that you use, but some systems may allow both schools to enter students into classes and perhaps even review grades and attendance. Regardless of the systems used, both the charter and the district must keep accurate and current attendance and grade records for all students in attendance and share that information when needed.

**What if the district school's bell schedule does not match up with the charter school's?**

This can certainly create challenges, as schools use a variety of schedules for a number of reasons. Schools should work with students to make activities available when possible. There will be times when a student is forced to choose between a course for an interscholastic activity with the district and another course at the charter school. Schools have never been expected or able to accommodate every scheduling request from every student.

**Who is responsible for transportation to and from the activities?**

Transportation is not mentioned in [ORS 339.460](#) or the associated rules. OSBA believes that neither the charter nor the district is legally required to provide transportation between the charter school and the district, although either could choose to.

**If students attend a charter school in a district other than the one in which they reside, what district can they participate in?**

A student must reside within the district in order to be eligible to participate in that district's activities, even if the student attends a charter school in a different district ([OAR 581-026-0700](#) refers to the definition for "resides" found in [ORS 339.133](#)). Additionally, students must reside within the individual school's attendance area in order to participate at the specific school.

**There are students attending our charter schools from several districts. Do we have to enter into a separate agreement with each district?**

Yes, a charter school would have to enter into an agreement with each district from which a participating student is attending. Each district may have a different General Purpose Grant per ADMw, so the maximum amount for fees from each charter school may be slightly different.

**If a district has students attending charter schools in multiple districts, does the district have to enter into an agreement with each individual charter school?**

Yes. A district will have to enter into an agreement with each charter school that students from the district attend.

**Can a district agree to different amounts with different charter schools?**

Yes. Just like a district may contract for different payment amounts in charter agreements, it can agree to different activity fees for different charter schools, as long as no charter is required to pay more than the maximum allowed. We recommend that the fees represent actual costs.

**We have a strict code of conduct for our activity participants, including attendance and GPA standards. Are charter school students who participate subject to these same requirements?** Yes. HB The law provides that a "student must meet all school eligibility requirements except the school district's school or class attendance requirements." [ORS 339.460\(2\)\(a\)\(B\)](#). The rules add that "student[s] must comply with any applicable participant code of conduct for the duration of the period

of participation.” [OAR 581-026-0700\(1\)\(d\)](#).

**We are a pay-to-play district. Students are charged \$50, for example, for some activities, including sports. Can we charge charter school students the same amount?**

Yes. Charter school students can be charged the same participation fees as district students as part of the eligibility requirements. The district should have procedures in place for waiver of the fee for students who cannot afford it. The same procedures would be available to charter school students.

**Who should sign an agreement on behalf of the district and charter? Does it need to be board adopted?**

There is no mention of who must act on behalf of the district or charter school, simply a requirement that “the school district and the public charter school shall enter into an agreement...” [ORS 339.460\(3\)\(b\)](#). The district superintendent and chief executive officer of the charter school may be able to enter into this agreement on behalf of their entities, but districts and charter schools should check their policies, contracts and budget language.

**What all needs to be included in the agreement?**

[OAR 581-026-0710\(4\)](#) requires that the following be included in the agreement between the district and the charter school:

- The amount of the fees that the charter school is required to pay; and
- The expectations for sharing of information by the charter school related to student performance and conduct.

**What information should the charter school share with the district?**

Information shared by the charter school should be limited to information necessary to determine eligibility. If the district requires all interscholastic activity participants to meet certain academic and behavioral requirements, related information could be shared.

**Can a student eligible for services under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act participate in interscholastic activities?**

Yes. A student should not be discriminated against because of a disability. The logistics may be more complicated, but districts and charter schools should work together to ensure that students with disabilities are able to participate.

**It costs nearly \$600 per student to play some of our sports, and more than that for activities that require a class. Receiving five or ten percent from the charter school will not cover those costs. Is there anything that we can do to recover more?**

At this time, no. The district can communicate financial concerns to the Oregon State Board of Education.

**Where can I find the text of the laws?**

[HB 4036 \(2018\)](#), [SB 208 \(2017\)](#). This language was added to [ORS 339.450](#) and [.460](#).

The rules are found in [OAR 581-026-0005](#), [-0700](#), [-0710](#).