

Virtual Public Charter School Enrollment School District Guidance



Updated August 2026

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Introduction

In 2011, House Bill 2301 gave school districts the option to deny a student's enrollment in a virtual public charter school if more than 3% of the district's student population was currently enrolled in virtual public charter schools located in other districts. When a parent gives the school district notice of intent to enroll a student in a virtual public charter school and receives a notice of denial, a parent may appeal the decision of a school district to deny a student's enrollment at a virtual public charter school to the Oregon Department of Education (ODE). In 2023, House Bill 3204 adjusted some of the timelines and requirements for the process. This guidance has been updated to align with new requirements.

The purpose of this guidance is to provide support to school district officials responsible for processing student enrollment information. Included in the guidance are tools and information that offer clarity regarding the requirements and timelines for districts that decide to deny a student's enrollment in a virtual public charter school.

Legal References and Definition of "Parent"

This guidance is based on the process and requirements from statute and administrative rules. It is important for district staff responsible for enrollment procedures to be familiar with these laws.

- [ORS 338.125](#)
- [OAR 581-026-0305](#)
- [OAR 581-026-0310](#)

Throughout this guidance, the term "parent" means a parent, legal guardian, or person in parental relationship as defined in [ORS 339.133](#).

Requirements for Written Notice of Student's Intent to Enroll

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. OAR 581-026-0305(1)(a) defines "Notice" as a written notice that is mailed, faxed, e-mailed, or personally delivered by the party required to provide the notice.

If a student is attending school in another district through an interdistrict transfer agreement, the parent or guardian must still provide notice of intent to enroll in a virtual public charter school to the school district where the student physically resides. If the district where the student physically resides has reached the 3% virtual charter enrollment limit, that district must approve or deny the enrollment request. ([ORS 338.125\(5\)\(a-c\)](#)).

Upon receipt of the notice, a district may do nothing further until receiving notice the student is enrolled in the virtual public charter school. If the District has more than 3% of resident students enrolled in a virtual public charter school not sponsored by the district, the district must provide notice to the parent that the district:

- Approves the student's enrollment in the virtual public charter school; or
- Denies the student's enrollment in the virtual public charter school.

Districts have 10 days to approve or deny enrollment in the virtual public charter school. Districts are encouraged to respond to all notices of intent to enroll promptly, to reduce the time a student may be between schools.

Date stamp all notices received by mail or personally delivered.

Students Exempt from District Approval:

When a student moves to a new school district and was previously enrolled in a virtual public charter school, the student does not need approval from the new school district to continue enrollment in the virtual public charter school. This only applies to students enrolled in a virtual public charter school who maintained continuous enrollment in the same school. For students who meet this description, the parent does not need to provide notice to the school district when the student moves to the new school district since the student's enrollment status did not change.

Requirements when Denying a Student's Intent to Enroll

District Policy:

If a school district chooses to deny a student for enrollment in a virtual public charter school, the district must have a policy that, at a minimum, includes the following:

- (a) The semiannual dates 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 not sponsored by the district.
- (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 not sponsored by the district. 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 (virtual and non-virtual)
 - (C) The number of resident students enrolled in virtual public charter schools not sponsored by the district
 - (D) The number of 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.

OSBA offers policy services to school districts with a policy aligned with the requirements.

Reporting 3% Calculations to ODE

The district needs to conduct the 3% calculation at least twice annually and according to the district policy. The calculation should be based on data reasonably available to the district and calculated before the district denies any enrollments.

ODE provides a 3% calculation tool using an Excel template, which is required for districts to complete and submit to ODE if an appeal has been filed with the Department. The completed template must include:

- The date on which the district did the calculation;
- A link to the district policy allowing the district to deny enrollment;
- The name and email of the primary person who will be managing the process at the district.

Districts that have notified ODE that the district is at 3% are included on a [public list](#) for virtual public charter schools to reference. This list includes the district name, a link to the required policy, a summary of the data used, and the district's contact person. Districts that are denying student enrollment in virtual public charter schools should update their information with ODE at least twice annually or according to the schedule required by district policy. Districts are required to provide this information to ODE when an appeal is submitted. The formula for conducting the calculation

Numerator = C

Denominator = A + B + C + D + E

(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 (virtual and non-virtual)

(C) The number of resident students enrolled in virtual public charter schools not sponsored by the school district

(D) The number of 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.

Reasonably available data

A school district must make effort to use accurate data to calculate the percentage of students enrolled in virtual public charter schools not sponsored by the district. However, the district is only required to use data that is reasonably available. Districts may request information from their education service district regarding the number of students who are registered to homeschool. To understand how many district students are attending local private schools, the district may request the information directly from the private schools, search online, or review school publications. Virtual public charter schools are

required to send a list of students to each school district in which the student who is enrolled in the school resides. The list must be sent monthly when the virtual public charter school is in session. (OAR 581-026-0305(6)). Districts that are not receiving these lists should contact the virtual public charter school directly and request the information.

Notice of Denial

If the district denies enrollment, the district must notify the parent and the parent must receive the notice of the denial within 10 calendar days. The notice of denial must include all of the following:

1. The most recent percentage of students in the resident district that attend virtual public charter schools that are not sponsored by the school district used to determine whether the district could deny the student enrollment;
2. A copy of the full text of [OAR 581-026-0305](#) and [OAR 581-026-0310](#);
3. A copy of ODE's [Virtual Charter School Enrollment Appeal Process](#) and the [Virtual Charter School Enrollment Appeal Form](#);
4. A list of two or more other online options available to the student.

It is highly recommended that districts send all correspondence via email to ensure there are clear date and timestamps. If you do use regular mail, please make sure you mail it by the 7th day to ensure the parent has a reasonable opportunity to receive it within 10 days.

Online Options

OAR 581-026-0305(2)(b) requires a district that denies enrollment to provide the family with a list of two or more other online options available to the student. The options must be public and tuition free.

Examples of acceptable "options"

- A district offers two options within its district online program(s).
 - The student accesses most of the same curriculum but can work with local teachers or other teachers; or
 - The student can access a hybrid in-class and online option or a completely virtual option.
- A district offers one program that provides a menu of options within the program that can be customized for the student:
 - Two different curriculum options; or
 - Ability to learn at their own pace (asynchronous) or in real-time with teachers and other classmates (synchronous).

Examples of what does not qualify as two or more online options

- A district offers one option for one grade group (e.g. K-5) and another option for other grade groups (6-8 or 9-12) with no options for customizing to the student's academic needs;
- A district offers one option that does not offer two or more curriculum options, or
- A private, tuition-based school or program.

The online options offered by the district do not have to be district-operated schools or programs. A district can point to a different charter school, another district program available through interdistrict transfer agreement, contract, or any other public option.

Appeals

A parent may appeal a decision of a school district to deny enrollment of a student in a virtual public charter school. All appeals must be filed according to the [Process to Appeal a School District Decision to Deny Student Enrollment in a Virtual Charter School](#) and using the [Appeal Form](#) within 10 days of the date the parent received the district denial. The parent must provide a copy of the notice of intent, and the district denial with the appeal. Other supporting documents may also be included with the appeal. The parent is required to provide a copy of the notice of appeal, and all associated documents, to the resident school district within 24 hours of when the parent sent or delivered the appeal to ODE.

ODE's electronic appeal system automatically emails the district a copy of the appeal. The copy includes the relevant information and includes the "reason for appeal." Unfortunately, the system is not capable of automatically including any supplemental documents. If a parent does not provide copies of all the supporting materials to the district, the district may request copies from ODE.

Responding to Appeals

If a family appeals a district's denial, the district may file a response with ODE. To be considered by ODE, responses must be received within 10 days of the date the district received a copy of the appeal. The district is notified and provided an opportunity to respond within 10 days. Responses may be sent via email to ode.charterschools@ode.oregon.gov.

Districts should respond to the specifics of the reason for the appeal because the burden lies with the district. If the family is making claims about how the district cannot meet the needs of the student or has failed to support the student, the district should provide some narrative or evidence of how the district has been responsive and supported the needs of the family. If the issues have never been brought to the district's attention, name that. All of these things will be considered.

The school district must provide a copy of the district response and any supporting documents to the parent, or person in parental relationship.

Computation of the 10-day Deadlines

ODE relies on [ORS 174.120](#) for the computation of time. Thus, ODE computes all timelines in the rules and procedures as calendar days, not business days.

It is highly recommended that districts send all correspondence via email to ensure there are clear date and timestamps. If you do use regular mail, please make sure you mail it by the 7th day to ensure the parent has a reasonable opportunity to receive it within 10 days.

Final Order

ODE will issue a final order within 14 days of receiving the notice of appeal from the parent. All final orders will be sent via electronic mail to the parent, the school district, and the public charter school.

Conditions that will result in ODE overturning the denial

- The school in which the student intends to enroll is not a virtual public charter school.
- 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.
- The district did not provide two or more online options to the student.
- The parent did not receive the notice of disapproval from the district within 10 days of when the parent sent the district the notice of intent to enroll.

Conditions that may result in ODE overturning the denial

ODE 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:

- The health and safety of the student.
- The student's educational needs and interests.
- The availability of other online options to the student.
- Any other information that ODE deems relevant to the decision.

Reconsideration and Judicial Review

Either party to the final order may pursue additional appeal rights upon receipt of a virtual public charter school enrollment appeal final order.

Reconsideration

A party to the final order, a district or parent, may request that ODE reconsider the decision in the final order. This must be requested within 60 days of the date of the final order and submitted in writing to the Director of the Department via email or mail. The most efficient way to request a reconsideration is by emailing the formal request to ode.charterschools@ode.oregon.gov. Reconsiderations are processed by ODE based on the information provided during the original appeal and any new information submitted during the reconsideration. Reconsiderations are typically requested when a party to the order thinks there are factual errors or other information that should be considered in making the decision that was not included in the finding of facts for the original order.

When a party requests an order to be reconsidered, the request and any additional information are presented to the other party for review and response. Reconsideration orders are typically processed within 30 days. Processing time depends on the details of the case and staff availability.

Judicial Review

A party to the final order, a district or parent, may seek judicial review of the decision in the final order under ORS 183.484. This can be initiated by filing a petition for review with the Circuit Court of Marion County or the circuit court of the county in which the petitioner resides or has a principal place of business. It must be filed within 60 days from the date of service of the final order or an order denying your request for reconsideration. Unless a party is representing themselves, it is recommended that you work with legal counsel.