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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) "Interscholastic activities": Athletics, music, speech and other similar or related activities:

(a) That are operated by the district;

(b) That are not part of the public charter school student's comprehensive instructional program; and

(c) For which the district participates in and is sanctioned by the Oregon School Activities Association (OSAA).

(4) "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.

(5) "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.

(6) "Virtual Public Charter School": A public charter school as defined in ORS 338.005(6) and 581-026-0300.

**Statutory/Other Authority:** ORS 338.025

**Statutes/Other Implemented:** ORS 338

**History:**

[ODE 8-2018, amend filed 03/02/2018, effective 03/03/2018](#)

ODE 10-2014, f. & cert. ef. 2-19-14

## 581-026-0100

### Development and Execution of a Charter

(1) The State Board or a School district board, , that approves 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.

**Statutory/Other Authority:** ORS 326.051

**Statutes/Other Implemented:** Ch. 200 & OL 1999 (SB 100)

**History:**

Renumbered from 581-020-0311, ODE 10-2014, f. & cert. ef. 2-19-14  
ODE 13-2000, f. & cert. ef. 5-3-00

**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. The decision must be made at a public meeting.

(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.

**Statutory/Other Authority:** ORS 326.051

**Statutes/Other Implemented:** ORS 338.105

**History:**

Renumbered from 581-020-0380, ODE 10-2014, f. & cert. ef. 2-19-14

ODE 11-2010, f. & cert. ef. 6-30-10

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

**581-026-0600**

**Public Charter School Facility Location**

(1) As used in this rule:

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

(b) “Primary physical address of the public charter school” means the physical location of the public charter school campus located within the boundaries of the sponsoring district or the district in which the public charter school originally applied under ORS 338.045.

(c) “School or facility” means a physical location that is owned, leased, or otherwise used by the public charter school where students receive instruction or educational services. As used in this rule, “school or facility” does not include the student’s home.

(2)(a) For public charter schools sponsored by a school district that establish schools and facilities that are not located at the primary physical address of the charter school, the district shall retain all responsibility assigned to a sponsor by ORS Chapter 338 and OAR 581-026-0005 to 0515.

(b) Except as provided in subsection (2)(a) of this rule, if a public charter school is sponsored by the State Board of Education, the district in which the primary physical address of the public charter school is located shall retain the responsibilities assigned to a district by ORS 338.155 to 338.165 and described in a contract between the district and the public charter school.

(3) The public charter school must maintain student records, board records, employment records, and other school records at the primary physical address of the public charter school.

(4) The board of a school district that is not the sponsoring school district of the public charter school may file a complaint with the Superintendent of Public Instruction pursuant to ORS 332.158(3) against the public charter school if:

(a) The public charter school opens or operates a school or facility within the boundaries of that district; and

(b) The public charter school did not provide written notice to the district school board of use of the school or facility prior to the first day on which students will attend classes in the school or receive instruction at the facility; and

(c) The public charter school or facility was not already in operation on January 1, 2016.

(5) The complaint must be in writing and may be delivered by mail, fax or e-mail or by personally delivering a copy to the Superintendent of Public Instruction and must contain:

- (a) The name of the school district making the complaint;
  - (b) The name and contact information of a member of the board or district staff person who will act as primary contact for the complaint;
  - (c) The name of the public charter school operating the facility;
  - (d) The primary physical address of the public charter school operating the facility;
  - (e) The physical address of the school or facility being operated by the public charter school in the offended district; and
  - (f) A brief statement explaining the facts underlying the complaint.
- (6) The school district board must provide written notice of the complaint by mail, fax, e-mail or personal delivery to the public charter school and the sponsoring district on the same date the complaint is provided to the superintendent.
- (7) Upon receipt of the complaint the superintendent shall schedule a contested case hearing pursuant to ORS 183.413 to 183.470.
- (8) Upon a finding that the public charter school has operated a school or facility in the school district without providing the board of the school district written notice:
- (a) The superintendent shall withhold State School Fund moneys due to the public charter school under ORS 338.155.
  - (b) The superintendent shall withhold moneys until the written notice is provided by the public charter school to the district school board, and a copy of the written notice is provided to the public charter school's sponsoring district and the superintendent.

**Statutory/Other Authority:** ORS 338.025

**Statutes/Other Implemented:** ORS 332.158 & ch. 338

**History:**

ODE 37-2016, f. & cert. ef. 7-18-16