

(Including Amendments to Resolve Conflicts)

B-Engrossed Senate Bill 214

Ordered by the House May 25
Including Senate Amendments dated February 13 and House Amendments
dated May 25

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Superintendent of Public Instruction Susan Castillo for Department of Education)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires public charter school operated by school district to be nonprofit organization unless school is in school district of only one school **or in school district that is remote and necessary school district.**

Provides that Employment Department Law applies to public charter schools.

Requires person employed as administrator in public charter school to be licensed or registered to administer by Teacher Standards and Practices Commission. Requires commission to establish public charter school administrator registry. Allows commission to suspend or revoke registration, or discipline registrant, for specified reasons.

Declares emergency, effective July 1, 2007.

A BILL FOR AN ACT

1
2 Relating to public charter schools; creating new provisions; amending ORS 181.539, 338.005, 338.025,
3 338.035, 338.115, 338.135, 342.125, 342.127, 342.143, 342.175, 342.176, 342.177 and 342.223; and de-
4 claring an emergency.

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

6 **SECTION 1.** ORS 338.035 is amended to read:

7 338.035. (1) A public charter school may be established:

8 (a) As a new public school;

9 (b) From an existing public school or a portion of the school; or

10 (c) From an existing alternative education program, as defined in ORS 336.615.

11 (2)(a) Before a public charter school may operate as a public charter school, it must:

12 (A) Be approved by a sponsor;

13 (B) Be established as a nonprofit organization under the laws of Oregon; and

14 (C) Have applied to qualify as an exempt organization under section 501(c)(3) of the Internal
15 Revenue Code.

16 (b) Notwithstanding paragraph (a) of this subsection, the requirements of paragraph (a)(B) and
17 (C) of this subsection do not apply to [*a public charter school that is operated by a school district*]:

18 (A) **A school in a school district that is composed of only one school; and**

19 (B) **A school in a school district that is a remote and necessary school district on the**
20 **date the school first begins operation as a public charter school.**

21 (3) An applicant seeking to establish a public charter school shall submit a proposal pursuant

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 to ORS 338.045 to the school district board of the school district within which the public charter
2 school will be located at least 120 days prior to the date upon which the public charter school would
3 begin operating. However, it is recommended that an applicant consult with the school district
4 board prior to submitting a proposal.

5 (4) An applicant seeking to establish a public charter school shall provide to the State Board
6 of Education a copy of any proposal submitted to a school district board under ORS 338.045 and a
7 copy of any subsequent approval by the school district board.

8 (5)(a) One or more, but not all, schools in a school district may become public charter schools.

9 (b) Notwithstanding paragraph (a) of this subsection, a school in a school district that is com-
10 posed of only one school may become a public charter school.

11 (6)(a) A school district board or the State Board of Education may not approve a public charter
12 school proposal that authorizes the conversion of any private school that is tuition based to a public
13 charter school.

14 (b) Notwithstanding paragraph (a) of this subsection, a school district board or the State Board
15 of Education may authorize the conversion of an existing alternative education program, as defined
16 in ORS 336.615, to a public charter school.

17 (7) A school district board or the State Board of Education may not approve a public charter
18 school proposal that is affiliated with a nonpublic sectarian school or a religious institution.

19 **SECTION 2.** ORS 338.005 is amended to read:

20 338.005. As used in this chapter, unless the context requires otherwise:

21 (1) "Applicant" means any person or group that develops and submits a written proposal for a
22 public charter school to a sponsor.

23 (2) "Public charter school" means an elementary or secondary school offering a comprehensive
24 instructional program operating under a written agreement entered into between a sponsor and an
25 applicant and operating pursuant to this chapter.

26 (3) **"Remote and necessary school district" means a school district that offers**
27 **kindergarten through grade 12 and has:**

28 (a) **An average daily membership (ADM), as defined in ORS 327.006, in the prior fiscal**
29 **year of less than 110; and**

30 (b) **A school that is located, by the nearest traveled road, more than 20 miles from the**
31 **nearest school or from a city with a population of more than 5,000.**

32 [(3)] (4) "Sponsor" means:

33 (a) The board of the common school district or the union high school district in which the public
34 charter school is located that has developed a written charter with an applicant to create a public
35 charter school.

36 (b) The State Board of Education pursuant to ORS 338.075.

37 **SECTION 3. The amendments to ORS 338.005 and 338.035 by sections 1 and 2 of this 2007**
38 **Act apply to a public charter school that:**

39 (1) **First begins operation as a public charter school on or after the effective date of this**
40 **2007 Act; or**

41 (2) **Renews its charter on or after the effective date of this 2007 Act.**

42 **SECTION 4.** ORS 338.025 is amended to read:

43 338.025. (1) The State Board of Education may adopt any rules necessary for the implementation
44 of this chapter. The rules shall follow the intent of this chapter.

45 (2) Upon application by a public charter school, the State Board of Education may grant a

1 waiver of any provision of this chapter if the waiver promotes the development of programs by
2 providers, enhances the equitable access by underserved families to the public education of their
3 choice, extends the equitable access to public support by all students or permits high quality pro-
4 grams of unusual cost. The State Board of Education may not waive any appeal provision in this
5 chapter or any provision under ORS 338.115 (1)(a) to [(p)] (q).

6 **SECTION 5.** ORS 338.115 is amended to read:

7 338.115. (1) Statutes and rules that apply to school district boards, school districts or other
8 public schools do not apply to public charter schools. However, the following laws do apply to public
9 charter schools:

10 (a) Federal law;

11 (b) ORS 192.410 to 192.505 (public records law);

12 (c) ORS 192.610 to 192.690 (public meetings law);

13 (d) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);

14 (e) ORS 181.534, 181.539, 326.603, 326.607 and 342.232 (criminal records checks);

15 (f) ORS 337.150 (textbooks);

16 (g) ORS 339.141, 339.147 and 339.155 (tuition and fees);

17 (h) ORS 659.850 and 659.855 (discrimination);

18 (i) ORS 30.260 to 30.300 (tort claims);

19 (j) Health and safety statutes and rules;

20 (k) Any statute or rule that is listed in the charter;

21 (L) The statewide assessment system developed by the Department of Education for mathemat-
22 ics, science and English under ORS 329.485 (1);

23 (m) ORS 329.045 (academic content standards and instruction);

24 (n) Any statute or rule that establishes requirements for instructional time provided by a school
25 during each day or during a year;

26 (o) ORS 339.250 (12) (prohibition on infliction of corporal punishment);

27 (p) ORS 339.370, 339.372 and 339.375 (reporting of child abuse);

28 **(q) ORS chapter 657 (Employment Department Law); and**

29 [(q)] (r) This chapter.

30 (2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules
31 that apply to school district boards, school districts and other public schools may apply to a public
32 charter school.

33 (3) If a statute or rule applies to a public charter school, then the terms “school district” and
34 “public school” include public charter school as those terms are used in that statute or rule.

35 (4) A public charter school may not violate the Establishment Clause of the First Amendment
36 to the United States Constitution or section 5, Article I of the Oregon Constitution, or be religion
37 based.

38 (5) A public charter school shall maintain an active enrollment of at least 25 students.

39 (6) A public charter school may sue or be sued as a separate legal entity.

40 (7) The sponsor, members of the governing board of the sponsor acting in their official capacities
41 and employees of a sponsor acting in their official capacities are immune from civil liability with
42 respect to all activities related to a public charter school within the scope of their duties or em-
43 ployment.

44 (8) A public charter school may enter into contracts and may lease facilities and services from
45 a school district, education service district, state institution of higher education, other governmental

1 unit or any person or legal entity.

2 (9) A public charter school may not levy taxes or issue bonds under which the public incurs li-
3 ability.

4 (10) A public charter school may receive and accept gifts, grants and donations from any source
5 for expenditure to carry out the lawful functions of the school.

6 (11) The school district in which the public charter school is located shall offer a high school
7 diploma, certificate, Certificate of Initial Mastery or Certificate of Advanced Mastery to any public
8 charter school student who meets the district's and state's standards for a high school diploma,
9 certificate, Certificate of Initial Mastery or Certificate of Advanced Mastery. If the school district
10 offers a Certificate of Initial Mastery subject area endorsement to students who attend school in the
11 district, then the school district shall offer the endorsement to any public charter school student
12 who meets the district's and state's standards for the endorsement.

13 (12) A high school diploma, certificate, Certificate of Initial Mastery, Certificate of Initial Mas-
14 tery subject area endorsement or Certificate of Advanced Mastery issued by a public charter school
15 grants to the holder the same rights and privileges as a high school diploma, certificate, Certificate
16 of Initial Mastery, Certificate of Initial Mastery subject area endorsement or Certificate of Ad-
17 vanced Mastery issued by a nonchartered public school.

18 (13) Prior to beginning operation, the public charter school shall show proof of insurance to the
19 sponsor as specified in the charter.

20 (14) A public charter school may receive services from an education service district in the same
21 manner as a nonchartered public school in the school district in which the public charter school is
22 located.

23 **SECTION 6.** ORS 338.135 is amended to read:

24 338.135. (1) Employee assignment to a public charter school shall be voluntary.

25 (2) A public charter school or the sponsor of the public charter school may be considered the
26 employer of any employees of the public charter school. If a school district board is not the sponsor
27 of the public charter school, the school district board shall not be the employer of the employees
28 of the public charter school and the school district board may not collectively bargain with the
29 employees of the public charter school. The public charter school governing body shall control the
30 selection of employees at the public charter school.

31 (3) The school district board of the school district within which the public charter school is lo-
32 cated shall grant a leave of absence to any employee who chooses to work in the public charter
33 school. The length and terms of the leave of absence shall be set by negotiated agreement or by
34 board policy. However, the length of the leave of absence may not be less than two years unless:

35 (a) The charter of the public charter school is terminated or the public charter school is dis-
36 solved or closed during the leave of absence; or

37 (b) The employee and the school district board have mutually agreed to a different length of
38 time.

39 (4) An employee of a public charter school operating within a school district who is granted a
40 leave of absence from the school district and returns to employment with the school district shall
41 retain seniority and benefits as an employee pursuant to the terms of the leave of absence.
42 Notwithstanding ORS 243.650 to 243.782, a school district that was the employer of an employee of
43 a public charter school not operating within the school district may make provisions for the return
44 of the employee to employment with the school district.

45 (5) For purposes of ORS chapters 238 and 238A, a public charter school shall be considered a

1 public employer and as such shall participate in the Public Employees Retirement System.

2 (6) For teacher licensing, employment experience in public charter schools shall be considered
3 equivalent to experience in public schools.

4 (7)(a) *[Notwithstanding ORS 342.173, a public charter school may employ as an administrator a*
5 *person who is not licensed by the Teacher Standards and Practices Commission.]* **Any person em-**
6 **ployed as an administrator in a public charter school shall be licensed or registered to ad-**
7 **minister by the Teacher Standards and Practices Commission.**

8 (b) Any person employed as a teacher in a public charter school shall be licensed or registered
9 to teach by the *[Teacher Standards and Practices]* commission.

10 (c) Notwithstanding paragraph (a) or (b) of this subsection, at least one-half of the total full-time
11 equivalent (FTE) teaching and administrative staff at the public charter school shall be licensed by
12 the commission pursuant to ORS 342.135, 342.136, 342.138 or 342.140.

13 (8) Notwithstanding ORS 243.650, a public charter school shall be considered a school district
14 for purposes of ORS 243.650 to 243.782. An employee of a public charter school may be a member
15 of a labor organization or organize with other employees to bargain collectively. Bargaining units
16 at the public charter school may be separate from other bargaining units of the sponsor or of the
17 school district in which the public charter school is located. Employees of a public charter school
18 may be part of the bargaining units of the sponsor or of the school district in which the public
19 charter school is located.

20 (9) A school district or the State Board of Education may not waive the right to sponsor a public
21 charter school in a collective bargaining agreement.

22 **SECTION 7. The amendments to ORS 338.135 by section 6 of this 2007 Act first apply to**
23 **the 2007-2008 school year.**

24 **SECTION 8.** ORS 342.125 is amended to read:

25 342.125. (1) Teaching licenses shall be issued and renewed by the Teacher Standards and Prac-
26 tices Commission by the authority of the State of Oregon, subject to ORS 342.120 to 342.430 and the
27 rules of the commission.

28 (2) Subject to subsection (4) of this section, teaching licenses shall be of the following types:

29 (a) Basic teaching license.

30 (b) Standard teaching license.

31 (c) Administrative license.

32 (d) Restricted teaching license.

33 (3) Subject to ORS 342.130 and to subsection (4) of this section and in addition to the teaching
34 licenses described in subsection (2) of this section, licenses shall be of the following types:

35 (a) Initial teaching license.

36 (b) Continuing teaching license.

37 (c) Initial personnel service license.

38 (d) Continuing personnel service license.

39 (e) Initial administrative license.

40 (f) Continuing administrative license.

41 (4) The Teacher Standards and Practices Commission may establish other types of teaching li-
42 censes as it considers necessary for operation of the public schools of the state and may prescribe
43 the qualifications for the licenses. However, no license established under the authority of this sub-
44 section is required for a regular classroom teaching position in the public schools.

45 (5)(a) The Teacher Standards and Practices Commission shall establish a public charter school

1 teacher **and administrator** registry. The commission shall require the applicant and the public
2 charter school to jointly submit an application requesting registration as a public charter school
3 teacher **or administrator**. The application shall include:

4 (A) A description of the specific teaching **or administrator** position the applicant will fill;

5 (B) A description of the background of the applicant that is relevant to the teaching **or ad-**
6 **ministrator** position, including any post-secondary education or other experience; and

7 (C) Documentation as required by the commission for the purposes of conducting a criminal re-
8 cords check as provided in ORS 181.534 and a background check through an interstate clearing-
9 house of revoked and suspended licenses.

10 (b) Subject to the results of the criminal records check and background check **and to infor-**
11 **mation received under ORS 342.143 (2)**, the commission shall approve the application for regis-
12 tration. The commission may deny a request for registration only on the basis of the criminal
13 records check, [or] the background check through an interstate clearinghouse of revoked and sus-
14 pended licenses **or the information received under ORS 342.143 (2)**. The registration is valid for
15 three years and may be renewed upon joint application from the teacher **or administrator** and the
16 public charter school.

17 (c) A registration as a public charter school teacher qualifies its holder to accept the teaching
18 position described in the application in the public charter school that submitted the application with
19 the holder of the registration.

20 **(d) A registration as a public charter school administrator qualifies its holder to accept**
21 **the administrator position described in the application in the public charter school that**
22 **submitted the application with the holder of the registration.**

23 (6) The Teacher Standards and Practices Commission shall adopt an expedited process for the
24 issuance of any license established pursuant to this section. The process may require a school dis-
25 trict superintendent or school district board and the applicant to jointly submit an application re-
26 questing an emergency license. Within two working days after receiving a completed application the
27 commission shall issue the emergency license. However, the commission may limit the number of
28 applications for expedited service from a school district or education service district to not more
29 than 100 applications in a period of two working days. For purposes of this subsection, the com-
30 mission may not distinguish between a school district or education service district involved in a
31 labor dispute and any other school district or education service district.

32 **SECTION 9. The amendments to ORS 342.125 by section 8 of this 2007 Act apply to ap-**
33 **licants who apply for registration or renewal of a registration as a public charter school**
34 **teacher on or after the effective date of this 2007 Act.**

35 **SECTION 10.** ORS 342.127 is amended to read:

36 342.127. (1) The Teacher Standards and Practices Commission shall establish and the commission
37 shall collect:

38 (a) A fee not to exceed \$100 for evaluation of the initial application for each teaching license
39 for which application is made. If the applicant is eligible for the teaching license for which appli-
40 cation is made and the license is issued within 90 days of original application, the commission shall
41 issue the license without additional charge.

42 (b) A fee not to exceed \$100 for the renewal of each teaching license and a fee not to exceed
43 \$20 for each duplicate teaching license.

44 (c) A fee not to exceed \$800 for a beginning teacher assessment conducted in lieu of an approved
45 preparation program required for licensure.

1 (d) A fee not to exceed \$200 for alternative assessment conducted in lieu of a passing score on
2 a licensure examination established by the commission.

3 (e) A fee not to exceed \$75 for registration as a public charter school teacher **or administrator**
4 that includes any fee charged pursuant to ORS 342.223 or rules adopted under ORS 181.534.

5 (f) A fee not to exceed \$75 for renewal of a registration as a public charter school teacher **or**
6 **administrator** that includes any fee charged pursuant to ORS 342.223 or rules adopted under ORS
7 181.534.

8 (2) In addition to the fee required by subsection (1) of this section for the issuance of a teaching
9 license, the Teacher Standards and Practices Commission shall collect a fee not to exceed \$150 for
10 the evaluation of an applicant requesting licensing based upon completion of other than an Oregon
11 approved teacher education program.

12 (3) In addition to the fees required by subsection (1) of this section, the Teacher Standards and
13 Practices Commission shall collect a late application fee not to exceed \$25 per month up to a max-
14 imum of \$125 from an applicant who fails to make timely application for renewal of the license or
15 registration. The actual amount of the fee shall be determined in accordance with rules of the
16 Teacher Standards and Practices Commission.

17 (4) In spite of the expiration date posted on the license, the license shall continue to be valid
18 for purposes of ORS 342.173 for an additional 120 days. However, the district may require a state-
19 ment from the applicant indicating that the applicant has completed the requirements for license
20 renewal.

21 (5) In addition to the fee required by subsection (1) of this section for the issuance of a teaching
22 license, the commission shall collect a fee not to exceed \$150 for the reinstatement of a license that
23 has been revoked by the commission for gross neglect of duty or gross unfitness under ORS 342.175.

24 (6) In addition to the fee required by subsection (1) of this section for the issuance of a teaching
25 license, the commission shall collect a fee not to exceed \$100 for the issuance of any emergency li-
26 cense through an expedited process at the request of any school district or education service district
27 that seeks to employ the applicant.

28 (7) Fee rates established under this section shall cover, but not exceed, the full cost of admin-
29 istrative expenses incurred by the commission during any biennium.

30 **SECTION 11.** ORS 342.143 is amended to read:

31 342.143. (1) No teaching, personnel service or administrative license shall be issued to any per-
32 son until the person has attained the age of 18 years and has furnished satisfactory evidence of
33 proper educational training.

34 (2) The Teacher Standards and Practices Commission may [*also*] require an applicant for a
35 teaching, personnel service or administrative license **or for registration as a public charter**
36 **school teacher or administrator** to furnish evidence satisfactory to the commission of good moral
37 character, mental and physical health, and such other evidence as it may deem necessary to estab-
38 lish the applicant's fitness to serve as a teacher **or administrator**.

39 (3) Without limiting the powers of the Teacher Standards and Practices Commission under sub-
40 section (2) of this section and notwithstanding ORS 670.280:

41 (a) No teaching, personnel service or administrative license or registration as a public charter
42 school teacher **or administrator** shall be issued to any person who:

43 (A) Has been convicted of a crime listed in ORS 163.095, 163.115, 163.185, 163.235, 163.355,
44 163.365, 163.375, 163.385, 163.395, 163.405, 163.408, 163.411, 163.415, 163.425, 163.427, 163.435, 163.445,
45 163.465, 163.515, 163.525, 163.547, 163.575, 163.670, 163.675 (1985 Replacement Part), 163.680 (1993

1 Edition), 163.684, 163.686, 163.687, 163.688, 163.689, 164.325, 164.415, 166.005, 166.087, 167.007, 167.012,
2 167.017, 167.062, 167.065, 167.070, 167.075, 167.080, 167.087, 167.090, 475.848, 475.852, 475.858, 475.860,
3 475.862, 475.864 (4), 475.868, 475.872, 475.878, 475.880, 475.882, 475.888, 475.890, 475.892, 475.904 or
4 475.906;

5 (B) Has been convicted under ORS 161.405 of an attempt to commit any of the crimes listed in
6 subparagraph (A) of this paragraph; or

7 (C) Has been convicted in another jurisdiction of a crime that is substantially equivalent, as
8 defined by rule, to any of the crimes listed in subparagraphs (A) and (B) of this paragraph.

9 (b) The Teacher Standards and Practices Commission may refuse to issue a license or registra-
10 tion to any person who has been convicted of a crime involving the illegal use, sale or possession
11 of controlled substances.

12 (4) In denying the issuance of a license or registration under this section, the commission shall
13 follow the procedure set forth in ORS 342.176 and 342.177.

14 (5) The Department of Education shall provide school districts and public charter schools a copy
15 of the list contained in subsection (3) of this section.

16 **SECTION 12.** ORS 342.175 is amended to read:

17 342.175. (1) The Teacher Standards and Practices Commission may suspend or revoke the license
18 **or registration** of a teacher or administrator, discipline a teacher or administrator or suspend or
19 revoke the right of any person to apply for a license **or registration** if the person has held a license
20 **or registration** at any time within five years prior to issuance of the notice of charges under ORS
21 342.176 based on the following:

22 (a) Conviction of a crime not listed in ORS 342.143 (3);

23 (b) Gross neglect of duty;

24 (c) Any gross unfitness;

25 (d) Conviction of a crime for violating any law of this or any state or of the United States in-
26 volving the illegal use, sale or possession of controlled substances;

27 (e) Any false statement knowingly made in an application for issuance, renewal or reinstatement
28 of a license **or registration**; or

29 (f) Failure to comply with any condition of reinstatement under subsection (3) of this section or
30 any condition of probation under ORS 342.177 (3)(b).

31 (2) Notwithstanding ORS 670.280, the commission shall revoke any license or registration and
32 shall revoke the right of any person to apply for a license or registration if the person has held a
33 license or registration at any time within five years prior to issuance of the notice of charges under
34 ORS 342.176 when the holder or person has been convicted of any crime described in ORS 342.143
35 (3).

36 (3) Except for convictions for crimes listed in ORS 342.143 (3) and subject to subsection (4) of
37 this section, any person whose license or registration has been suspended or revoked or whose
38 privilege to apply for a license or registration has been revoked may apply to the commission for
39 reinstatement of the license or registration after one year from the date of the suspension or revo-
40 cation. The commission may require an applicant for reinstatement to furnish evidence satisfactory
41 to the commission of good moral character, mental and physical health and such other evidence as
42 the commission may consider necessary to establish the applicant's fitness. The commission may
43 impose a probationary period and such conditions as it considers necessary upon approving an ap-
44 plication for reinstatement.

45 (4) The commission shall reconsider immediately a license or registration suspension or revoca-

1 tion or the situation of a person whose privilege to apply for a license or registration has been re-
2 voked, upon application therefor, when the license or registration suspension or revocation or the
3 privilege revocation is based on a criminal conviction that is reversed on appeal.

4 (5) Violation of rules adopted by the commission relating to competent and ethical performance
5 of professional duties shall be admissible as evidence of gross neglect of duty or gross unfitness.

6 (6) A copy of the record of conviction, certified to by the clerk of the court entering the con-
7 viction, shall be conclusive evidence of a conviction described in this section.

8 **SECTION 13.** ORS 342.176 is amended to read:

9 342.176. (1) Upon receipt of a complaint or information that a person has violated ORS 342.143
10 or 342.175, the Teacher Standards and Practices Commission shall promptly undertake an investi-
11 gation.

12 (2) The commission may appoint an investigator and shall furnish the investigator with appro-
13 priate professional and other special assistance reasonably required to conduct the investigation,
14 and the investigator is empowered to subpoena witnesses over the signature of the executive direc-
15 tor, swear witnesses and compel obedience in the same manner as provided under ORS 183.440 (2).

16 (3) Following completion of the investigation, the executive director shall report in writing any
17 findings and recommendations to:

18 (a) The commission, meeting in executive session, at its next regular meeting following com-
19 pletion of the investigation; and

20 (b) The person against whom the charge is made.

21 (4) The documents and materials used in the investigation and the report of the executive di-
22 rector are confidential and not subject to public inspection unless the commission makes a final
23 determination that the person charged has violated ORS 342.143 or 342.175.

24 (5) If the commission finds from the report that there is sufficient cause to justify holding a
25 hearing under ORS 342.177, it shall notify in writing:

26 (a) The person charged, enclosing a statement of the charges and a notice of opportunity for
27 hearing;

28 (b) The complainant; and

29 (c) The employing district **or public charter school**, if any.

30 (6) If the commission finds from the report that there is not sufficient cause to justify holding
31 a hearing under ORS 342.177, it shall notify in writing:

32 (a) The person charged;

33 (b) The complainant; and

34 (c) The employing district **or public charter school**, if any.

35 (7) Notwithstanding ORS 192.660 (6), the commission may make its findings under this section
36 in executive session. However, the provisions of ORS 192.660 (4) apply to the sessions.

37 **SECTION 14.** ORS 342.177 is amended to read:

38 342.177. (1)(a) Hearings under ORS 342.176 shall be conducted by an administrative law judge
39 assigned from the Office of Administrative Hearings established under ORS 183.605.

40 (b) Notwithstanding paragraph (a) of this subsection, the Teacher Standards and Practices
41 Commission shall conduct any hearing that results from the suspension of the teaching license of a
42 teacher under ORS 342.553.

43 (c) Any hearing conducted under this subsection shall be private unless the person against
44 whom the charge is made requests a public hearing. Students attending school in the district
45 [which] **that** employs the person [shall not be permitted to] **may not** attend any hearing except as

1 witnesses duly subpoenaed to testify with respect to the charges made. **Students attending a public**
2 **charter school that employs the person may not attend any hearing except as witnesses duly**
3 **subpoenaed to testify with respect to the charges made.** The person against whom the charge
4 is made shall have the right to be represented by counsel and to present evidence and argument.
5 The evidence must be confined to the charges.

6 (2) The Teacher Standards and Practices Commission or the person charged may have subpoenas
7 issued to compel attendance at the hearing. The person charged may have subpoenas issued by an
8 attorney of record subscribed by the signature of the attorney or by the executive director. Wit-
9 nesses appearing pursuant to subpoena, other than the parties or officers or employees of the com-
10 mission, shall receive fees and mileage as prescribed by law for witnesses in ORS 44.415 (2). The
11 commission or the person charged shall have the right to compel the attendance and obedience of
12 witnesses in the same manner as provided under ORS 183.440 (2).

13 (3) The commission shall render its decision at its next regular meeting following the hearing.
14 If the decision of the commission is that the charge described in ORS 342.175 (1) has been proven,
15 the commission may take any or all of the following disciplinary action against the person charged:

16 (a) Issue a public reprimand.

17 (b) Place the person on probation for a period not to exceed four years and subject to such
18 conditions as the commission considers necessary.

19 (c) Suspend the license **or registration** of the teacher or administrator for a period not to ex-
20 ceed one year.

21 (d) Revoke the license **or registration** of the teacher or administrator.

22 (e) Revoke the privilege to apply for a license **or registration**.

23 (4) If the decision of the commission is that the charge is not proven, the commission shall order
24 the charges dismissed.

25 (5) The commission shall notify in writing the person charged, the school district **or public**
26 **charter school** by which the person is employed and the Superintendent of Public Instruction of the
27 decision.

28 **SECTION 15.** ORS 181.539 is amended to read:

29 181.539. (1) For the purpose of requesting a state or nationwide criminal records check under
30 ORS 181.534, the Teacher Standards and Practices Commission and the Department of Education
31 may require the fingerprints of:

32 (a) A person who is applying for initial issuance of a license under ORS 342.120 to 342.430 as
33 a teacher, administrator or personnel specialist if the person has not submitted to a criminal records
34 check by the commission within the previous year.

35 (b) A person who is applying for reinstatement of a license as a teacher, administrator or per-
36 sonnel specialist whose license has lapsed for at least three years.

37 (c) A person who is applying for initial issuance of a certificate under ORS 342.475 as a school
38 nurse.

39 (d) A school district or private school contractor, whether part-time or full-time, or an employee
40 thereof, whether part-time or full-time, who has direct, unsupervised contact with students as de-
41 termined by the district or private school.

42 (e) A person newly hired, whether part-time or full-time, by a school district or private school
43 in a capacity not described in paragraphs (a) to (c) of this subsection who has direct, unsupervised
44 contact with children as determined by the district or private school.

45 (f) A person employed, whether part-time or full-time, by a school district or private school in

1 a capacity not described in paragraphs (a) to (c) of this subsection who has direct, unsupervised
2 contact with children as determined by the district or private school.

3 (g) A person who is registering with the commission for student teaching, practicum or
4 internship as a teacher, administrator or personnel specialist, if the person has not submitted to a
5 criminal records check by the commission within the previous year for student teaching, practicum
6 or internship as a teacher, administrator or personnel specialist.

7 (h) A person who is a community college faculty member providing instruction at a kindergarten
8 through grade 12 school site during the regular school day.

9 (i) A person who is an employee of a public charter school.

10 (j) A person who is applying for initial issuance of a registration as a public charter school
11 teacher **or administrator** under ORS 342.125.

12 (2) Notwithstanding subsection (1) of this section, the commission and the department may not
13 require fingerprints of a person described in subsection (1)(d), (e), (f), (h) or (i) of this section if the
14 person or the person's employer was checked in one school district or private school and is cur-
15 rently seeking to work in another district or private school unless the person lived outside this state
16 during the interval between the two periods of time of working in the district or private school.

17 (3) Nothing in this section requires a person described in subsection (1)(d), (e) or (i) of this
18 section to submit to fingerprinting until the person has been offered employment or a contract by
19 a school district or private school. Contractor employees shall not be required to submit to finger-
20 printing until the contractor has been offered a contract.

21 (4) As used in this section:

22 (a) "Private school" means a school that provides educational services as defined in ORS 345.505
23 and is registered as a private school under ORS 345.505 to 345.575.

24 (b) "School district" means:

25 (A) A school district as defined in ORS 330.003.

26 (B) The Oregon State School for the Blind.

27 (C) The Oregon State School for the Deaf.

28 (D) An educational program under the Youth Corrections Education Program.

29 (E) A public charter school as defined in ORS 338.005.

30 (F) An education service district.

31 **SECTION 15a. If House Bill 2047 becomes law, section 15 of this 2007 Act (amending ORS**
32 **181.539) is repealed and ORS 342.223, as amended by section 2, chapter 35, Oregon Laws 2007**
33 **(Enrolled House Bill 2047), is amended to read:**

34 342.223. (1) For the purpose of requesting a state or nationwide criminal records check under
35 ORS 181.534, the Teacher Standards and Practices Commission may require the fingerprints of:

36 (a) A person who is applying for initial issuance of a license under ORS 342.120 to 342.430 as
37 a teacher, administrator or personnel specialist if the person has not submitted to a criminal records
38 check by the commission within the previous year.

39 (b) A person who is applying for reinstatement of a license as a teacher, administrator or per-
40 sonnel specialist whose license has lapsed for at least three years.

41 (c) A person who is applying for initial issuance of a certificate under ORS 342.475 as a school
42 nurse.

43 (d) A person who is registering with the commission for student teaching, practicum or
44 internship as a teacher, administrator or personnel specialist, if the person has not submitted to a
45 criminal records check by the commission within the previous year for student teaching, practicum

1 or internship as a teacher, administrator or personnel specialist.

2 (e) A person who is applying for initial issuance of a registration as a public charter school
3 teacher **or administrator** under ORS 342.125.

4 (2) The making of any false statement as to the conviction of a crime is grounds for refusal to
5 issue, renew or reinstate a license, certificate or registration and is in addition to the grounds stated
6 in ORS 342.143.

7 (3) A person may appeal the refusal to issue an initial license, certificate or registration under
8 this section as a contested case under ORS 183.413 to 183.470, but the refusal to renew or reinstate
9 a license or registration is subject to ORS 342.175 to 342.180, and the commission shall notify the
10 person of the right to appeal.

11 **SECTION 15b. If House Bill 2047 becomes law, the amendments to ORS 342.223 by section
12 15a of this 2007 Act become operative on January 1, 2008.**

13 **SECTION 16. This 2007 Act being necessary for the immediate preservation of the public
14 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
15 July 1, 2007.**