

A-Engrossed Senate Bill 1092

Ordered by the Senate February 13
Including Senate Amendments dated February 13

Sponsored by Senator HASS; Senator BATES (Presession filed.)

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 district attorney or other person filing juvenile delinquency petition to notify school **authorities** when student of school is subject of petition. Requires [*principal*] **school administrator** to notify necessary school personnel of petition. [*Permits expungement of information relating to notice maintained by school. Mandates standards for maintenance and destruction of juvenile court information held by school.*] **Authorizes school districts to promulgate rules for notification of personnel. Requires school personnel to keep information in notice confidential. Provides that information in notice may be used for disciplinary purposes under certain circumstances. Limits liability for failure to comply with notification and confidentiality provisions.** Reduces to five days period for notification of school of criminal charges against student pending in adult court.

A BILL FOR AN ACT

1
2 Relating to disclosure of information about students involved in justice system; creating new pro-
3 visions; and amending ORS 338.025, 338.115, 339.317, 339.319, 339.321, 339.323, 419A.015, 419A.255
4 and 419A.300.

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

6 **SECTION 1. Section 2 of this 2008 Act is added to and made a part of ORS chapter 419A.**

7 **SECTION 2. (1)(a) When a youth makes a first appearance before the juvenile court on**
8 **a petition described in subsection (4) of this section alleging that the youth is within the ju-**
9 **risdiction of the juvenile court under ORS 419C.005, the district attorney or other person**
10 **filing the petition under ORS 419C.250 shall notify:**

11 (A) The superintendent of the school district in which the youth resides or the super-
12 intendent's designee; or

13 (B) If the person filing the petition has information that the youth is enrolled in a private
14 school or charter school, the principal of the school in which the youth is enrolled.

15 (b) If the juvenile court sets aside or dismisses a petition as provided in ORS 419C.261 for
16 which notice was given under subsection (1)(a) of this section, or if the juvenile court de-
17 termines that the youth is not within the jurisdiction of the juvenile court, the district at-
18 torney or other person prosecuting the case shall notify:

19 (A) The superintendent of the school district in which the youth resides or the super-
20 intendent's designee; or

21 (B) If the person prosecuting the case has information that the youth is enrolled in a
22 private school or charter school, the principal of the school in which the youth is enrolled.

23 (2) The notice required under subsection (1) of this section may be communicated by mail

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 or other method of delivery, including but not limited to electronic transmission. The notice
2 must include:

3 (a) The name and date of birth of the youth;

4 (b) The names and addresses of the youth's parents or guardians;

5 (c) The alleged basis for the juvenile court's jurisdiction over the youth;

6 (d) The act alleged in the petition that, if committed by an adult, would constitute a
7 crime; and

8 (e) If notice is required under subsection (1)(b) of this section, that portion of the juvenile
9 court order providing for the legal disposition of the youth.

10 (3) The notice required under subsection (1) of this section must be given within 15 days
11 after:

12 (a) The youth makes a first appearance before the juvenile court on a petition;

13 (b) The petition is dismissed or set aside; or

14 (c) The juvenile court determines that the youth is not within the jurisdiction of the ju-
15 venile court after a hearing on the merits of the petition.

16 (4) This section applies to petitions filed alleging that the youth engaged in conduct that,
17 if committed by an adult, would constitute a crime involving:

18 (a) Harm or threatened harm to another person, including criminal homicide, assault or
19 any attempt to cause physical injury to another person;

20 (b) Sexual assault of an animal or animal abuse in any degree;

21 (c) A sex offense listed in ORS 181.594 (4), except for rape in the third degree under ORS
22 163.355;

23 (d) A weapon, as defined in ORS 166.360, or the threatened use of a weapon;

24 (e) Possession or manufacture of a destructive device, as defined in ORS 166.382, or pos-
25 session of a hoax destructive device, as defined in ORS 166.385; or

26 (f) An offense for which manufacture or delivery of alcohol or a controlled substance is
27 an element of the crime.

28 (5) Except as otherwise provided in ORS 192.490, a person who sends or receives notice
29 under this section is not civilly or criminally liable for failing to disclose the information
30 under this section.

31 **SECTION 3.** (1) As used in this section:

32 (a) "Principal" means a person having general administrative control and supervision of
33 a school.

34 (b) "School" means a public or private institution of learning providing education to one
35 or more instructional levels from kindergarten through grade 12 or equivalent instructional
36 levels.

37 (c) "School administrator" means the superintendent of the school district, the super-
38 intendent's designee or the principal of a private school or charter school.

39 (d) "School subcontractor" includes but is not limited to:

40 (A) Companies contracting with a school to provide services to students throughout the
41 school day; and

42 (B) Employees of contracting companies that provide the contracted services, including
43 but not limited to:

44 (i) Transportation providers.

45 (ii) Food service workers.

1 (iii) Daytime building maintenance workers.

2 (iv) Health center workers or nurses.

3 (v) Library personnel.

4 (vi) Translators.

5 (e) "Youth" has the meaning given that term in ORS 419A.004.

6 (2) Within 48 hours after receiving notice under section 2 of this 2008 Act, a school ad-
7 ministrator shall notify school employees and school subcontractors who the school admin-
8 istrator determines need the information in order to:

9 (a) Safeguard the safety and security of the school, students and staff;

10 (b) Arrange appropriate counseling and education for the youth; or

11 (c) If the notice includes any portion of the court order disposing of the petition, inform
12 school employees and school subcontractors previously notified of the petition under this
13 subsection that the court has set aside or dismissed the petition or determined that the
14 youth is not within the jurisdiction of the juvenile court.

15 (3) If a youth transfers to an Oregon school from a school outside the state, the school
16 administrator of the Oregon school shall contact the youth's former school and request any
17 information that the youth's former school may have relating to the youth's history of en-
18 gaging in activity that is likely to place at risk the safety of school employees, school sub-
19 contractors or other students or that requires arrangement of appropriate counseling or
20 education for the youth. Upon receipt of information that the youth has a history of engaging
21 in activity that is likely to place at risk the safety of school employees, school subcontractors
22 or other students, the school administrator shall notify school employees and school sub-
23 contractors who need the information in order to:

24 (a) Safeguard the safety and security of the school, students and staff; or

25 (b) Arrange appropriate counseling and education for the youth.

26 (4) A school district, private school or charter school may adopt policies and procedures
27 for providing notification to school employees and school subcontractors under this section.

28 (5)(a) Except as provided in this section, information contained in a notice required under
29 section 2 of this 2008 Act or obtained from an out-of-state school under subsection (3) of this
30 section is confidential.

31 (b) Persons receiving information contained in a notice required under section 2 of this
32 2008 Act or obtained from an out-of-state school under subsection (3) of this section may not
33 disclose any information relating to a petition or discuss the information contained in a no-
34 tice with anyone other than:

35 (A) The youth;

36 (B) The youth's parent or guardian;

37 (C) The principal or school superintendent;

38 (D) School employees or school subcontractors notified under subsection (2) or (3) of this
39 section;

40 (E) Law enforcement personnel; and

41 (F) The youth's probation officer or juvenile counselor.

42 (c) A school employee or school subcontractor is not subject to discipline for disclosing
43 the existence of a notice under section 2 of this 2008 Act or for disclosing the contents of the
44 notice, unless the disclosure was made in bad faith, with malicious intent or in a manner
45 exhibiting a willful, wanton disregard of the rights, safety or property of another.

1 **(6)(a) Information obtained under this section or under section 2 of this 2008 Act may**
2 **not be used for admissions or disciplinary decisions concerning the youth unless the violation**
3 **occurred:**

4 **(A) During a school function; or**

5 **(B) On school property.**

6 **(b) Notwithstanding paragraph (a) of this subsection, information obtained under this**
7 **section or under section 2 of this 2008 Act may be used for making an educational placement**
8 **for the youth, if necessary for arranging appropriate counseling and education for the youth.**

9 **(c) The receipt of a notice under section 2 of this 2008 Act does not deprive the school**
10 **of the authority to institute or continue a disciplinary action against the youth based on the**
11 **same conduct alleged in the notice if the disciplinary proceedings are based on information**
12 **obtained by the school or school district that is not derived from the notice.**

13 **(7) A person is not civilly or criminally liable for giving or failing to give the notice re-**
14 **quired under this section. Nothing in this section creates a new cause of action or enlarges**
15 **an existing cause of action for compensation or damages.**

16 **SECTION 4.** ORS 339.317 is amended to read:

17 339.317. (1)(a) No later than [15] **five** days after a person under 18 years of age is charged with
18 a crime under ORS 137.707 or is waived under ORS 419C.349, 419C.352 or 419C.364, the district at-
19 torney or city attorney, if the person is waived to municipal court, shall [*notify the school district*
20 *in which the person resides of that fact*] **give notice of the charge to the superintendent of the**
21 **school district in which the person resides or the superintendent's designee.**

22 **(b)** The district attorney or city attorney shall include in the notice the crime with which the
23 person is charged.

24 (2) [A *district attorney, city attorney or anyone employed by or acting on behalf of a district at-*
25 *torney or city attorney*] **A person** who sends records under this section is not [*liable*] civilly or
26 criminally **liable** for failing to disclose the information under this section.

27 **SECTION 5.** ORS 339.319 is amended to read:

28 339.319. (1)(a) When a person under 18 years of age is convicted of a crime under ORS 137.707
29 or following waiver under ORS 419C.349, 419C.352, 419C.364 or 419C.370 (1)(b), the agency super-
30 vising the person shall [*notify the school district in which the person resides of that fact*] **give notice**
31 **of the conviction** within five days following sentencing **to the superintendent of the school dis-**
32 **trict in which the person resides or the superintendent's designee.**

33 **(b)** The agency supervising the person shall include in the notice:

34 **(A) The name and date of birth of the person;**

35 **(B) The names and addresses of the person's parents or guardians;**

36 [(a)] **(C) The crime of conviction;**

37 [(b)] **(D) The sentence imposed; and**

38 [(c)] **(E) If the person is released on any type of release, whether school attendance is a condi-**
39 **tion of the release.**

40 (2) An agency supervising a person or anyone employed by or acting on behalf of an agency
41 supervising a person who sends records under this section is not [*liable*] civilly or criminally **liable**
42 for failing to disclose the information under this section.

43 **SECTION 6.** ORS 339.321 is amended to read:

44 339.321. (1) No later than 15 days [*prior to*] **before** the release or discharge of a person com-
45 mitted to the legal custody of the Department of Corrections or the supervisory authority of a

1 county under ORS 137.707 or following waiver under ORS 419C.349, 419C.352, 419C.364 or 419C.370,
2 the department or supervisory authority, as appropriate, shall notify the following of the release or
3 discharge if the person is under 21 years of age at the time of the release:

4 (a) Law enforcement agencies in the community in which the person is going to reside; and

5 (b) The school district in which the person is going to reside.

6 (2) The department or supervisory authority shall include in the notification:

7 (a) The person's name, **date of birth** and date of release or discharge;

8 **(b) The person's address;**

9 **(c) The names and addresses of the person's parents or guardians;**

10 [(b)] **(d)** The type of supervision under which the person is released; and

11 [(c)] **(e)** Whether school attendance is a condition of release.

12 (3) The department, supervisory authority or anyone employed by or acting on behalf of the
13 department or supervisory authority who sends records under this section is not [liable] civilly or
14 criminally **liable** for failing to disclose the information under this section.

15 **SECTION 7.** ORS 339.323 is amended to read:

16 339.323. (1) When a **superintendent of a school district or the superintendent's designee** re-
17 ceives notice under ORS 339.317, 339.319, 339.321 or 420A.122, the **superintendent of the school**
18 **district or the superintendent's designee** may disclose the information only to those school em-
19 ployees **and school subcontractors, as defined in section 3 of this 2008 Act, who** the district
20 determines need the information in order to safeguard the safety and security of the school, students
21 and staff. A person to whom personally identifiable information is disclosed under this subsection
22 may not disclose the information to another person except to carry out the provisions of this sub-
23 section.

24 (2) A **superintendent of a school district or the superintendent's designee** or anyone em-
25 ployed by or acting on behalf of a [school district] **superintendent or superintendent's designee**
26 who receives notice under ORS 339.317, 339.319, 339.321 or 420A.122 is not [liable] civilly or
27 criminally **liable** for failing to disclose the information.

28 **SECTION 8.** ORS 419A.015 is amended to read:

29 419A.015. (1)(a) Once each month, a county juvenile department shall provide to each school
30 district in the county a list of all youth offenders enrolled in a school in the school district who are
31 on probation by order of the juvenile court in the county. The department shall include in the list
32 the name and business telephone number of the juvenile counselor assigned to each case.

33 (b) When a youth offender who is on probation transfers from one school district to a different
34 school district, the juvenile counselor assigned to the case shall notify the superintendent of the
35 school district to which the youth offender has transferred of the youth offender's probation status.
36 The juvenile counselor shall make the notification no later than 72 hours after the juvenile coun-
37 selor knows of the transfer.

38 (2) Upon request by **the superintendent of the school district or the superintendent's**
39 **designee**, the juvenile department shall provide additional information, including the offense that
40 brought the youth offender within the jurisdiction of the juvenile court and such other information
41 that is subject to disclosure under ORS 419A.255 (5).

42 (3) In addition to the general notification required by subsection (1) of this section, the juvenile
43 department[:]

44 [(a)] shall notify the **superintendent of the school district or the superintendent's designee**
45 of the specific offense [if the act] bringing the youth offender within the jurisdiction of the juvenile

1 court **and whether the act** involved a firearm or delivery of a controlled substance.

2 *[(b) May notify the school district of the specific offense if the act bringing the youth offender*
 3 *within the jurisdiction of the juvenile court involved a violation of ORS 163.355 to 163.445 or 163.465*
 4 *or any other offense if the juvenile department believes the youth offender represents a risk to other*
 5 *students or school staff.]*

6 (4) When a **superintendent of a school district or the superintendent's designee** receives
 7 notice under this section, the school district may disclose the information only to those school em-
 8 ployees **or school subcontractors, as defined in section 3 of this 2008 Act, who** the [district]
 9 **superintendent or the superintendent's designee** determines need the information in order to
 10 safeguard the safety and security of the school, students and staff. A person to whom personally
 11 identifiable information is disclosed under this subsection may not disclose the information to an-
 12 other person except to carry out the provisions of this subsection.

13 (5) Except as otherwise provided in ORS 192.490, a juvenile department, school district or any-
 14 one employed or acting on behalf of a juvenile department or school district who sends or receives
 15 records under this section is not [*liable*] civilly or criminally **liable** for failing to disclose the infor-
 16 mation under this section.

17 **SECTION 9.** ORS 419A.255 is amended to read:

18 419A.255. (1) The clerk of the court shall keep a record of each case, including therein the
 19 summons and other process, the petition and all other papers in the nature of pleadings, motions,
 20 orders of the court and other papers filed with the court, but excluding reports and other material
 21 relating to the child, ward, youth or youth offender's history and prognosis. The record of the case
 22 shall be withheld from public inspection but is open to inspection by the child, ward, youth, youth
 23 offender, parent, guardian, court appointed special advocate, surrogate or a person allowed to in-
 24 tervene in a proceeding involving the child, ward, youth or youth offender, and their attorneys. The
 25 attorneys are entitled to copies of the record of the case.

26 (2) Reports and other material relating to the child, ward, youth or youth offender's history and
 27 prognosis are privileged and, except at the request of the child, ward, youth or youth offender, may
 28 not be disclosed directly or indirectly to anyone other than the judge of the juvenile court, those
 29 acting under the judge's direction, service providers in the case and the attorneys of record for the
 30 child, ward, youth or youth offender or the child, ward, youth or youth offender's parent, guardian,
 31 court appointed special advocate, surrogate or person allowed to intervene in a proceeding involving
 32 the child, ward, youth or youth offender. Reports and other material relating to a youth offender's
 33 history and prognosis in cases under ORS 419C.005 may be disclosed to the superintendent of the
 34 school district in which the youth offender resides **or the superintendent's designee**. The service
 35 providers in the case, school superintendents, **superintendents' designees** and attorneys are enti-
 36 tled to examine and obtain copies of any reports or other material relating to the child, ward, youth
 37 or youth offender's history and prognosis. Any service provider in the case, school superintendent,
 38 **superintendent's designee** or attorney who examines or obtains copies of such reports or materials
 39 is responsible for preserving their confidentiality. A service provider, [*or*] school superintendent **or**
 40 **superintendent's designee** who obtains copies of such reports or materials shall return the copies
 41 to the court upon the conclusion of the service provider's, [*or*] superintendent's **or superintendent's**
 42 **designee's** involvement in the case.

43 (3) Except as otherwise provided in subsection (7) of this section, no information appearing in
 44 the record of the case or in reports or other material relating to the child, ward, youth or youth
 45 offender's history or prognosis may be disclosed to any person not described in subsection (2) of this

1 section without the consent of the court, except for purposes of evaluating the child, ward, youth
2 or youth offender's eligibility for special education as provided in ORS chapter 343, and no such
3 information may be used in evidence in any proceeding to establish criminal or civil liability against
4 the child, ward, youth or youth offender, whether such proceeding occurs after the child, ward,
5 youth or youth offender has reached 18 years of age or otherwise, except for the following purposes:

6 (a) In connection with a presentence investigation after guilt has been admitted or established
7 in a criminal court.

8 (b) In connection with a proceeding in another juvenile court concerning the child, ward, youth
9 or youth offender or an appeal from the juvenile court.

10 (4) If the court finds that the child, ward, youth, youth offender or parent is without financial
11 means to purchase all or a necessary part of the transcript of the evidence or proceedings, the court
12 shall order upon motion the transcript or part thereof to be furnished. The transcript or part thereof
13 furnished under this subsection shall be paid for in the same manner as furnished transcripts are
14 paid for in criminal cases.

15 (5) Notwithstanding any other provision of law, the following are not confidential and not ex-
16 empt from disclosure:

17 (a) The name and date of birth of the youth or youth offender;

18 (b) The basis for the juvenile court's jurisdiction over the youth or youth offender;

19 (c) The date, time and place of any juvenile court proceeding in which the youth or youth
20 offender is involved;

21 (d) The act alleged in the petition that if committed by an adult would constitute a crime if ju-
22 risdiction is based on ORS 419C.005;

23 (e) That portion of the juvenile court order providing for the legal disposition of the youth or
24 youth offender when jurisdiction is based on ORS 419C.005;

25 (f) The names and addresses of the youth or youth offender's parents or guardians; and

26 (g) The register described in ORS 7.020 when jurisdiction is based on ORS 419C.005.

27 (6) Notwithstanding any other provision of law, when a youth has been taken into custody under
28 ORS 419C.080, the following information shall be disclosed unless, and only for so long as, there is
29 a clear need to delay disclosure in the course of a specific investigation, including the need to pro-
30 tect the complaining party or the victim:

31 (a) The youth's name and age and whether the youth is employed or in school;

32 (b) The youth offense for which the youth was taken into custody;

33 (c) The name and age of the adult complaining party and the adult victim, unless the disclosure
34 of such information is otherwise prohibited or restricted;

35 (d) The identity of the investigating and arresting agency; and

36 (e) The time and place that the youth was taken into custody and whether there was resistance,
37 pursuit or a weapon used in taking the youth into custody.

38 (7)(a) Information contained in reports and other materials relating to a child, ward, youth or
39 youth offender's history and prognosis that, in the professional judgment of the juvenile counselor,
40 caseworker, school superintendent **or superintendent's designee**, teacher or detention worker to
41 whom the information for the reports or other materials has been provided, indicates a clear and
42 immediate danger to another person or to society shall be disclosed to the appropriate authority and
43 the person or entity who is in danger from the child, ward, youth or youth offender.

44 (b) An agency or a person who discloses information under paragraph (a) of this subsection has
45 immunity from any liability, civil or criminal, that might otherwise be incurred or imposed for

1 making the disclosure.

2 (c) Nothing in this subsection affects the provisions of ORS 146.750, 146.760, 419B.035, 419B.040
3 and 419B.045. The disclosure of information under this section does not make the information ad-
4 missible in any court or administrative proceeding if it is not otherwise admissible.

5 (8) A county juvenile department is the agency responsible for disclosing youth and youth
6 offender records if the records are subject to disclosure.

7 (9) A petition filed under ORS 419B.851 alleging that a child who is a foreign national is within
8 the jurisdiction of the court, or a motion requesting an implementation plan other than return of a
9 ward to the ward's parent, is subject to disclosure to the consulate for the child or ward's country
10 as provided under ORS 419B.851 (3).

11 (10) Nothing in this section prohibits a guardian appointed under ORS 419B.365 or 419B.366 from
12 disclosing or providing copies of letters of guardianship when so required to fulfill the duties of a
13 guardian.

14 (11) The court shall cooperate in the sharing of information with a court in another state to
15 facilitate an interstate placement of a child or ward.

16 **SECTION 10.** ORS 419A.300 is amended to read:

17 419A.300. (1)(a) Once each month, the Department of Human Services shall provide to each
18 school district a list of all young persons enrolled in a school in the school district who are on
19 conditional release. The department shall include in the list the name and business telephone num-
20 ber of the caseworker assigned to each case.

21 (b) When a young person who is on conditional release transfers from one school district to a
22 different school district, the caseworker assigned to the case shall notify the superintendent of the
23 school district to which the young person has transferred of the young person's status. The
24 caseworker shall make the notification no later than 72 hours after the caseworker knows of the
25 transfer.

26 (2) Upon request by the **superintendent of the school district in which a young person is**
27 **enrolled or the superintendent's designee**, the department shall provide additional information,
28 including the offense that brought the young person within the jurisdiction of the juvenile court and
29 such other information that is subject to disclosure under ORS 419A.255 (5).

30 (3) In addition to the general notification required by subsection (1) of this section, the
31 department[.] **shall notify the superintendent or the superintendent's designee of the specific**
32 **offense and whether the act involved a firearm or delivery of a controlled substance.**

33 *[(a) Shall notify the school district of the specific offense if the act that brought the young person*
34 *within the jurisdiction of the juvenile court involved a firearm or delivery of a controlled substance.]*

35 *[(b) May notify the school district of the specific offense if the act that brought the young person*
36 *within the jurisdiction of the juvenile court involved a violation of ORS 163.355 to 163.445 or 163.465*
37 *or any other offense if the department believes the young person represents a risk to other students or*
38 *school staff.]*

39 (4) ORS 419A.015 (4) and (5) apply to persons sending or receiving records under this section.

40 **SECTION 11.** ORS 338.115 is amended to read:

41 338.115. (1) Statutes and rules that apply to school district boards, school districts or other
42 public schools do not apply to public charter schools. However, the following laws do apply to public
43 charter schools:

44 (a) Federal law;

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

- 1 (c) ORS 192.610 to 192.690 (public meetings law);
- 2 (d) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);
- 3 (e) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);
- 4 (f) ORS 337.150 (textbooks);
- 5 (g) ORS 339.141, 339.147 and 339.155 (tuition and fees);
- 6 (h) ORS 659.850, 659.855 and 659.860 (discrimination);
- 7 (i) ORS 30.260 to 30.300 (tort claims);
- 8 (j) Health and safety statutes and rules;
- 9 (k) Any statute or rule that is listed in the charter;
- 10 (L) The statewide assessment system developed by the Department of Education for mathemat-
- 11 ics, science and English under ORS 329.485 (2);
- 12 (m) ORS 329.045 (academic content standards and instruction);
- 13 (n) Any statute or rule that establishes requirements for instructional time provided by a school
- 14 during each day or during a year;
- 15 (o) ORS 339.250 (12) (prohibition on infliction of corporal punishment);
- 16 (p) ORS 339.370, 339.372, 339.375 and 339.377 (reporting of child abuse and training on pre-
- 17 vention and identification of child abuse);
- 18 (q) ORS 329.451 (diploma, modified diploma and alternative certificate);
- 19 (r) ORS chapter 657 (Employment Department Law);
- 20 (s) **Section 3 of this 2008 Act;** and
- 21 [(s)] (t) This chapter.
- 22 (2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules
- 23 that apply to school district boards, school districts and other public schools may apply to a public
- 24 charter school.
- 25 (3) If a statute or rule applies to a public charter school, then the terms “school district” and
- 26 “public school” include public charter school as those terms are used in that statute or rule.
- 27 (4) A public charter school may not violate the Establishment Clause of the First Amendment
- 28 to the United States Constitution or section 5, Article I of the Oregon Constitution, or be religion
- 29 based.
- 30 (5) A public charter school shall maintain an active enrollment of at least 25 students.
- 31 (6) A public charter school may sue or be sued as a separate legal entity.
- 32 (7) The sponsor, members of the governing board of the sponsor acting in their official capacities
- 33 and employees of a sponsor acting in their official capacities are immune from civil liability with
- 34 respect to all activities related to a public charter school within the scope of their duties or em-
- 35 ployment.
- 36 (8) A public charter school may enter into contracts and may lease facilities and services from
- 37 a school district, education service district, state institution of higher education, other governmental
- 38 unit or any person or legal entity.
- 39 (9) A public charter school may not levy taxes or issue bonds under which the public incurs li-
- 40 ability.
- 41 (10) A public charter school may receive and accept gifts, grants and donations from any source
- 42 for expenditure to carry out the lawful functions of the school.
- 43 (11) The school district in which the public charter school is located shall offer a high school
- 44 diploma, modified diploma or alternative certificate to any public charter school student who meets
- 45 the district’s and state’s standards for a high school diploma, modified diploma or alternative cer-

1 tificate.

2 (12) A high school diploma, modified diploma or alternative certificate issued by a public charter
3 school grants to the holder the same rights and privileges as a high school diploma, modified di-
4 ploma or alternative certificate issued by a nonchartered public school.

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

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

10 **SECTION 12.** ORS 338.115, as amended by section 7, chapter 839, Oregon Laws 2007, is
11 amended to read:

12 338.115. (1) Statutes and rules that apply to school district boards, school districts or other
13 public schools do not apply to public charter schools. However, the following laws do apply to public
14 charter schools:

15 (a) Federal law;

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

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

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

19 (e) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);

20 (f) ORS 337.150 (textbooks);

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

22 (h) ORS 659.850, 659.855 and 659.860 (discrimination);

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

24 (j) Health and safety statutes and rules;

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

26 (L) The statewide assessment system developed by the Department of Education for mathemat-
27 ics, science and English under ORS 329.485 (2);

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

29 (n) ORS 329.496 (physical education);

30 (o) Any statute or rule that establishes requirements for instructional time provided by a school
31 during each day or during a year;

32 (p) ORS 339.250 (12) (prohibition on infliction of corporal punishment);

33 (q) ORS 339.370, 339.372, 339.375 and 339.377 (reporting of child abuse and training on pre-
34 vention and identification of child abuse);

35 (r) ORS 329.451 (diploma, modified diploma and alternative certificate);

36 (s) ORS chapter 657 (Employment Department Law);

37 **(t) Section 3 of this 2008 Act;** and

38 ~~[(t)]~~ **(u)** This chapter.

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

42 (3) If a statute or rule applies to a public charter school, then the terms "school district" and
43 "public school" include public charter school as those terms are used in that statute or rule.

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

1 based.

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

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

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

8 (8) A public charter school may enter into contracts and may lease facilities and services from
9 a school district, education service district, state institution of higher education, other governmental
10 unit or any person or legal entity.

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

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

15 (11) The school district in which the public charter school is located shall offer a high school
16 diploma, modified diploma or alternative certificate to any public charter school student who meets
17 the district's and state's standards for a high school diploma, modified diploma or alternative cer-
18 tificate.

19 (12) A high school diploma, modified diploma or alternative certificate issued by a public charter
20 school grants to the holder the same rights and privileges as a high school diploma, modified di-
21 ploma or alternative certificate issued by a nonchartered public school.

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

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

27 **SECTION 13.** ORS 338.025 is amended to read:

28 338.025. (1) The State Board of Education may adopt any rules necessary for the implementation
29 of this chapter. The rules shall follow the intent of this chapter.

30 (2) Upon application by a public charter school, the State Board of Education may grant a
31 waiver of any provision of this chapter if the waiver promotes the development of programs by
32 providers, enhances the equitable access by underserved families to the public education of their
33 choice, extends the equitable access to public support by all students or permits high quality pro-
34 grams of unusual cost. The State Board of Education may not waive any appeal provision in this
35 chapter or any provision under ORS 338.115 (1)(a) to [(r)] (s).

36 **SECTION 14.** ORS 338.025, as amended by section 8, chapter 839, Oregon Laws 2007, is
37 amended to read:

38 338.025. (1) The State Board of Education may adopt any rules necessary for the implementation
39 of this chapter. The rules shall follow the intent of this chapter.

40 (2) Upon application by a public charter school, the State Board of Education may grant a
41 waiver of any provision of this chapter if the waiver promotes the development of programs by
42 providers, enhances the equitable access by underserved families to the public education of their
43 choice, extends the equitable access to public support by all students or permits high quality pro-
44 grams of unusual cost. The State Board of Education may not waive any appeal provision in this
45 chapter or any provision under ORS 338.115 (1)(a) to [(s)] (t).

1 **SECTION 15.** The amendments to ORS 338.025 and 338.115 by sections 12 and 14 of this
2 **2008 Act become operative July 1, 2017, and first apply to the 2017-2018 school year.**
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