

**Enrolled**  
**House Bill 3660**

Sponsored by COMMITTEE ON EDUCATION (at the request of the Online Learning Task Force)

CHAPTER .....

AN ACT

Relating to virtual public schools; creating new provisions; amending ORS 336.631, 338.025 and 338.120 and section 17, chapter 691, Oregon Laws 2009; and declaring an emergency.

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

**SECTION 1.** ORS 338.120 is amended to read:

338.120. (1) In addition to any other requirements of this chapter for a public charter school, a virtual public charter school must have:

(a) A plan for academic achievement that addresses how the school will improve student learning and meet academic content standards required by ORS 329.045.

(b) Performance criteria the school will use to measure the progress of the school in meeting the academic performance goals set by the school for its first five years of operation.

(c) A plan for implementing the proposed education program of the school by directly and significantly involving parents and guardians of students enrolled in the school and involving the professional employees of the school.

(d) A budget, business plan and governance plan for the operation of the school. **The budget and accounting system of the school must be compatible with the budget and accounting system of the sponsor of the virtual public charter school and must comply with the requirements of the uniform budget and accounting system adopted by rule of the State Board of Education under ORS 327.511.**

*[(e) An agreement that the school will operate using an interactive Internet-based technology platform that monitors and tracks student progress and attendance in conjunction with performing other student assessment functions.]*

**(e) In the charter of the school, a requirement that the school:**

**(A) Monitor and track student progress and attendance; and**

**(B) Provide student assessments in a manner that ensures that an individual student is being assessed and that the assessment is valid.**

(f) Notwithstanding ORS 338.135 (7), *[an agreement to employ only licensed teachers who are]* **a plan to ensure that:**

**(A) All superintendents, assistant superintendents and principals of the school are licensed to administer by the Teacher Standards and Practices Commission; and**

**(B) All teachers of the school are licensed to teach by the Teacher Standards and Practices Commission and are highly qualified as described in the federal No Child Left Behind Act of 2001 (P.L. 107-110, 115 Stat. 1425).**

(g) A plan for maintaining student records and school records, including financial records, at a designated central office of operations[.] **that is located:**

**(A) If the sponsor is a school district, within the school district that is the sponsor and as specified in the charter of the school; or**

**(B) If the sponsor is the State Board of Education, at a central office located in Oregon and as specified in the charter of the school.**

(h) A plan to provide equitable access to the education program of the school by ensuring that each student enrolled in the school:

(A) Has access to and use of computer and printer equipment as needed;

(B) Is offered an Internet service cost reimbursement arrangement under which the school reimburses the parent or guardian of the student, at a rate set by the school, for the costs of obtaining Internet service at the minimum connection speed required to effectively access the education program provided by the school; or

(C) Has access to and use of computer and printer equipment and is offered Internet service cost reimbursement.

(i) A plan to provide access to computer and printer equipment and the Internet service cost reimbursement as described in paragraph (h) of this subsection by students enrolled in the school who are from families that qualify as low-income under Title I of the federal Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(j) A plan to conduct school-sponsored optional educational events at least six times each school year at locations selected to provide convenient access to all students enrolled in the school who want to participate.

(k) A plan to conduct [*biweekly*] meetings **at least twice a week** between teachers and students enrolled in the school, either in person or through the use of conference calls or other technology.

(L) A plan to provide opportunities for face-to-face meetings between teachers and students enrolled in the school at least six times each school year.

**(m) A plan to provide, at the time of a student's enrollment, written notice to the student's resident school district and to the sponsor. Notification must be provided within 10 days after enrollment and must include:**

**(A) The name, age and address of the student; and**

**(B) The name of the school in which the student was formerly enrolled.**

**(n) A plan to provide, at the time of a student's withdrawal, written notice to the student's resident school district and to the sponsor. Notification must be provided within 10 days after withdrawal and must include:**

**(A) The name, age and address of the student;**

**(B) The name of the school in which the student will enroll, if known to the virtual public charter school; and**

**(C) The last day on which the student was enrolled at the virtual public charter school.**

**(o) An agreement to provide a student's education records to the student's resident school district or to the sponsor, upon request of the resident school district or sponsor.**

(2) If a virtual public charter school enters into a contract with a third-party entity to provide educational services for the virtual public charter school, the virtual public charter school must have on file the third-party entity's budget for the provision of educational services and that budget must itemize:

(a) The salaries of supervisory and management personnel and consultants who are providing educational or related services for a public charter school in this state; and

(b) The annual operating expenses and profit margin of the third-party entity for providing educational services to a public charter school in this state.

(3)(a) The sponsor [*of a virtual public charter school*] or a member of the public may request access to any of the documents described in subsections (1) and (2) of this section **that are public records, as provided by ORS 192.410 to 192.505.**

(b) Upon request by a sponsor or a member of the public, a virtual public charter school must provide reasonable access to the documents described in subsections (1) and (2) of this section **that**

are public records, as provided by ORS 192.410 to 192.505. The documents may be provided electronically.

**SECTION 2. The amendments to ORS 338.120 by section 1 of this 2010 Act:**

**(1) Become operative July 1, 2010.**

**(2) First apply to the 2010-2011 school year.**

**SECTION 3. ORS 338.025 is amended to read:**

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

(2) Upon application by a public charter school, the State Board of Education may grant a waiver of any provision of this chapter if the waiver promotes the development of programs by providers, enhances the equitable access by underserved families to the public education of their choice, extends the equitable access to public support by all students or permits high quality programs of unusual cost. The State Board of Education may not waive any appeal provision in this chapter or any provision under ORS 338.115 (1)(a) to (s) **or 338.120.**

**SECTION 4. ORS 338.025, as amended by section 8, chapter 839, Oregon Laws 2007, and section 14, chapter 50, Oregon Laws 2008, is amended to read:**

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

(2) Upon application by a public charter school, the State Board of Education may grant a waiver of any provision of this chapter if the waiver promotes the development of programs by providers, enhances the equitable access by underserved families to the public education of their choice, extends the equitable access to public support by all students or permits high quality programs of unusual cost. The State Board of Education may not waive any appeal provision in this chapter or any provision under ORS 338.115 (1)(a) to (t) **or 338.120.**

**SECTION 5. Section 17, chapter 691, Oregon Laws 2009, is amended to read:**

**Sec. 17. (1) As used in this section:**

(a) "District student" means a student who resides in the school district that is the sponsor of a virtual public charter school.

(b) "Nondistrict student" means a student who does not reside in the school district that is the sponsor of a virtual public charter school.

(2)(a) Notwithstanding any other provision of this chapter, and based on the number of students to whom online instruction was provided on May 1, 2009, a virtual public charter school may not increase the number of students to whom online instruction is provided. This section applies to all virtual public charter schools established in this state prior to, on or after [*the effective date of this 2009 Act*] **July 14, 2009**, unless:

(A) Fifty percent or more of the students who attend the virtual public charter school are district students, in which case the number of students receiving online instruction may increase until the number of nondistrict students receiving online instruction is no greater than 50 percent of the total number of students receiving online instruction; or

(B) The virtual public charter school:

(i) **Prior to April 27, 2009, was** [*has been*] granted a waiver by the State Board of Education under ORS 338.025 of the provisions of ORS 338.125 (2)(b)[, *and the school complies*]; **and**

(ii) **Is in compliance** with the terms of the waiver, **regardless of whether the waiver expired on or after April 27, 2009.**

(b)(A) Notwithstanding the restrictions of paragraph (a) of this subsection, a virtual public charter school may enroll a sibling of a student if the student was enrolled in the virtual public charter school on May 1, 2009, even if the virtual public charter school is restricted from increasing the number of students to whom online instruction is provided and only if the virtual public charter school is in compliance with subparagraphs (B) and (C) of this paragraph.

(B) A student who is a sibling of a student who was enrolled in the virtual public charter school on May 1, 2009, may enroll in the virtual public charter school as provided in this paragraph only

if the enrollment is for the next academic term during which a student may begin receiving online instruction.

(C) A virtual public charter school that is restricted from increasing the number of students to whom online instruction is provided but that is able to enroll new students within the limits of that restriction must first enroll students who are siblings of students who were enrolled in the virtual public charter school on May 1, 2009.

(c) Notwithstanding the restrictions of paragraph (a) of this subsection, a virtual public charter school that did not provide online instruction to any students on May 1, 2009, may increase the number of students to whom online instruction is provided until the number of nondistrict students receiving online instruction is no greater than 50 percent of the total number of students receiving online instruction.

(d)(A) Notwithstanding the restrictions of paragraph (a) of this subsection and notwithstanding subsection (3) of this section, a virtual public charter school may increase the number of students to whom online instruction is provided if:

(i) The virtual public charter school had students enrolled on May 1, 2009;

(ii) The enrollment of the virtual public charter school was 120 or fewer students on May 1, 2009; and

(iii) The State Board of Education provides a waiver to the virtual public charter school under ORS 338.025 of the restrictions imposed by paragraph (a) of this subsection and the requirements of ORS 338.125 (2)(b).

(B) A waiver allowed under this paragraph may only allow a virtual public charter school described in this paragraph to increase, before July 1, 2011, the number of students to whom online instruction is provided to 120 without violating the provisions of this section or ORS 338.125 (2)(b). After the virtual public charter school has enrolled 120 students, enrollment of any additional students must comply with the provisions of ORS 338.125 (2)(b).

(3) Notwithstanding ORS 338.025, the State Board of Education may not approve a waiver of ORS 338.125 (2)(b) for a virtual public charter school established in this state prior to, on or after *[the effective date of this 2009 Act]* **July 14, 2009**. This subsection applies to requests for waivers for a virtual public charter school that:

(a) Are pending before the State Board of Education or first submitted to the State Board of Education on or after *[the effective date of this 2009 Act]* **July 14, 2009**; or

(b) Are granted on or after April 27, 2009, in which case the waiver is immediately revoked.

**(4)(a) Nothing in subsection (3) of this section prohibits the State Board of Education from determining prior to July 1, 2011, whether to grant a waiver of ORS 338.125 (2)(b) for the 2011-2012 school year.**

**(b) A determination made by the State Board of Education as provided by this subsection may only apply to virtual public charter schools that were established prior to May 1, 2009.**

**(c) If the State Board of Education determines to grant a waiver as provided by this subsection, the waiver may only become effective on or after July 1, 2011.**

*[(4)]* (5) A virtual public charter school that is in violation of the provisions of ORS 338.125 (2)(b) may continue to operate as long as the virtual public charter school is in compliance with this section.

**SECTION 6. (1) As used in this section, “virtual public school” means a public school that:**

**(a) Provides online courses; and**

**(b) Does not primarily serve students in a physical location.**

**(2) In any advertising or other promotional materials of a virtual public school, including a virtual public charter school as defined in ORS 338.005, the school must clearly state that the school is a publicly funded school.**

**SECTION 7.** ORS 336.631 is amended to read:

336.631. (1) Prior to contracting with or distributing any public funds to a private alternative education program, a district school board shall:

(a) Annually approve the private alternative education program;  
(b) Determine that the private alternative education program is registered with the Department of Education; and

(c) Determine that the private alternative education program complies with the requirements of subsection (2) of this section and ORS 336.625 (3)(c).

(2) The following laws apply to private alternative education programs that are registered with the Department of Education under ORS 336.635 in the same manner as the laws apply to school districts and public schools:

(a) Federal law;

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

(c) ORS 337.150, 339.141, 339.147 and 339.155 (tuition and fees);

(d) ORS 659.850, 659.855 and 659.860 (discrimination);

**(e) Section 6 of this 2010 Act (advertisement requirements);**

[(e)] **(f)** Health and safety statutes and rules; and

[(f)] **(g)** Any statute, rule or school district policy that is specified in a contract between the school district board and the private alternative education program.

(3) Prior to placement of a student in a private alternative education program, the resident district shall determine whether the proposed placement best serves the student's educational needs and interests and assists the student in achieving the district and state academic standards.

(4) Contracts between a school district and a private alternative education program shall be included in the assessment of effectiveness provided for in ORS 329.085.

**SECTION 8.** ORS 336.631, as amended by section 6, chapter 839, Oregon Laws 2007, is amended to read:

336.631. (1) Prior to contracting with or distributing any public funds to a private alternative education program, a district school board shall:

(a) Annually approve the private alternative education program;

(b) Determine that the private alternative education program is registered with the Department of Education; and

(c) Determine that the private alternative education program complies with the requirements of subsection (2) of this section and ORS 336.625 (3)(c).

(2) The following laws apply to private alternative education programs that are registered with the Department of Education under ORS 336.635 in the same manner as the laws apply to school districts and public schools:

(a) Federal law;

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

(c) ORS 329.496 (physical education);

(d) ORS 337.150, 339.141, 339.147 and 339.155 (tuition and fees);

(e) ORS 659.850, 659.855 and 659.860 (discrimination);

**(f) Section 6 of this 2010 Act (advertisement requirements);**

[(f)] **(g)** Health and safety statutes and rules; and

[(g)] **(h)** Any statute, rule or school district policy that is specified in a contract between the school district board and the private alternative education program.

(3) Prior to placement of a student in a private alternative education program, the resident district shall determine whether the proposed placement best serves the student's educational needs and interests and assists the student in achieving the district and state academic standards.

(4) Contracts between a school district and a private alternative education program shall be included in the assessment of effectiveness provided for in ORS 329.085.

**SECTION 9. (1) As used in this section:**

**(a) "Virtual public charter school" has the meaning given that term in ORS 338.005.**

**(b) "Virtual public school" means a public school that:**

**(A) Provides online courses; and**

**(B) Does not primarily serve students in a physical location.**

(2) The State Board of Education shall:

(a) Develop a proposed governance model for virtual public schools, including virtual public charter schools.

(b) Review the appropriate levels and methods of funding for virtual public schools, including virtual public charter schools.

(c) In consultation with the State Advisory Council for Special Education and any other organizations assisting children with disabilities:

(A) Review participation rates of children with disabilities at virtual public schools, including virtual public charter schools; and

(B) Identify virtual public schools, including virtual public charter schools, in this state at which the children are enrolled.

(3) All school districts, public schools, public charter schools, alternative education programs and other entities that receive public funding to provide educational services are directed to assist the State Board of Education and the Department of Education in the performance of their duties under this section and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the board and the department consider necessary to perform their duties.

(4) Not later than September 1, 2010, the State Board of Education shall present the proposed governance model and provide a preliminary report on the topics described in subsection (2) of this section to the appropriate interim legislative committees.

**SECTION 10.** Section 9 of this 2010 Act is repealed on the date of the convening of the next regular biennial legislative session.

**SECTION 11.** (1) The appropriate legislative committees of the Seventy-sixth Legislative Assembly shall evaluate whether the provisions of ORS chapter 338 should apply to virtual public charter schools. The evaluation shall take into consideration the information provided by the State Board of Education under section 9 of this 2010 Act.

(2) Based on the evaluation described in subsection (1) of this section, the committees shall make recommendations for consideration by the Seventy-sixth Legislative Assembly.

**SECTION 12.** This 2010 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect on its passage.

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**Passed by House February 22, 2010**

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Chief Clerk of House

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Speaker of House

**Passed by Senate February 23, 2010**

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President of Senate

**Received by Governor:**

.....M,....., 2010

**Approved:**

.....M,....., 2010

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Governor

**Filed in Office of Secretary of State:**

.....M,....., 2010

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Secretary of State