

Enrolled
House Bill 2029

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Superintendent of Public Instruction Susan Castillo for Department of Education)

CHAPTER

AN ACT

Relating to student education records; amending ORS 338.025, 338.105 and 338.115; and declaring an emergency.

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

SECTION 1. ORS 338.105, as amended by section 12, chapter 691, Oregon Laws 2009, is amended to read:

338.105. (1) During the term of a charter, the sponsor may terminate the charter on any of the following grounds:

- (a) Failure to meet the terms of an approved charter or this chapter.
- (b) Failure to meet the requirements for student performance stated in the charter.
- (c) Failure to correct a violation of a federal or state law that is described in ORS 338.115.
- (d) Failure to maintain insurance as described in the charter.
- (e) Failure to maintain financial stability.
- (f) Failure to maintain, for two or more consecutive years, a sound financial management system described in the proposal submitted under ORS 338.045 and incorporated into the written charter under ORS 338.065.

(2) If a charter is terminated under subsection (1) of this section, the sponsor shall notify the public charter school governing body at least 60 days prior to the proposed effective date of the termination. The notice shall state the grounds for the termination. The public charter school governing body may request a hearing by the sponsor.

(3) A public charter school governing body may appeal any decision of a sponsor that is:

- (a) A school district board to the State Board of Education. The State Board of Education shall adopt by rule procedures to ensure a timely appeals process to prevent disruption of students' education.
- (b) The State Board of Education to the circuit court pursuant to ORS 183.484.

(4)(a) Notwithstanding subsection (2) of this section, a sponsor may terminate a charter immediately and close a public charter school if the public charter school is endangering the health or safety of the students enrolled in the public charter school.

(b) The public charter school governing body may request a hearing from the sponsor on the termination of the charter under this subsection. The sponsor shall hold a hearing within 10 days after receiving the request.

(c) The public charter school governing body may appeal a decision of a sponsor under this subsection to the State Board of Education. The State Board of Education shall hold a hearing within 10 days after receiving the appeal request.

(d) Throughout the appeals process, the public charter school shall remain closed at the discretion of the sponsor unless the State Board of Education orders the sponsor to open the public charter school and not terminate the charter.

(5) Termination of a charter shall not abridge the public charter school's legal authority to operate as a private or nonchartered public school.

(6) If a charter is terminated or a public charter school is dissolved[,]:

(a) The assets of the public charter school that were purchased with public funds shall be given to the State Board of Education. The State Board of Education may disburse the assets of the public charter school to school districts or other public charter schools.

(b) All student education records of the public charter school shall be transferred to the administrative office of the school district in which the public charter school was located.

(7) A public charter school governing body may only terminate a charter, dissolve or close a public charter school at the end of a semester. If a charter is terminated by the public charter school governing body or a public charter school is closed or dissolved, the public charter school governing body shall notify the sponsor at least 180 days prior to the proposed effective date of the termination, closure or dissolution.

SECTION 2. ORS 338.115, as amended by section 2, chapter 53, Oregon Laws 2010, is amended to read:

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

[*(a) Federal law;*]

[*(b) ORS 192.410 to 192.505 (public records law);*]

[*(c) ORS 192.610 to 192.690 (public meetings law);*]

[*(d) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);*]

[*(e) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);*]

[*(f) ORS 337.150 (textbooks);*]

[*(g) ORS 339.141, 339.147 and 339.155 (tuition and fees);*]

[*(h) ORS 659.850, 659.855 and 659.860 (discrimination);*]

[*(i) ORS 30.260 to 30.300 (tort claims);*]

[*(j) Health and safety statutes and rules;*]

[*(k) Any statute or rule that is listed in the charter;*]

[*(L) The statewide assessment system developed by the Department of Education for mathematics, science and English under ORS 329.485 (2);*]

[*(m) ORS 329.045 (academic content standards and instruction);*]

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

[*(o) ORS 339.250 (12) (prohibition on infliction of corporal punishment);*]

[*(p) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of child abuse and training on prevention and identification of child abuse);*]

[*(q) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative certificate);*]

[*(r) ORS chapter 657 (Employment Department Law);*]

[*(s) ORS 339.326;*]

[*(t) Section 1, chapter 53, Oregon Laws 2010 (consideration for educational services); and*]

[*(u) This chapter.*]

(a) Federal law;

(b) ORS 30.260 to 30.300 (tort claims);

(c) ORS 192.410 to 192.505 (public records law);

(d) ORS 192.610 to 192.690 (public meetings law);

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

(f) ORS 326.565, 326.575 and 326.580 (student records);

- (g) **ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);**
- (h) **ORS 329.045 (academic content standards and instruction);**
- (i) **ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative certificate);**
- (j) **The statewide assessment system developed by the Department of Education for mathematics, science and English under ORS 329.485 (2);**
- (k) **ORS 337.150 (textbooks);**
- (l) **ORS 339.141, 339.147 and 339.155 (tuition and fees);**
- (m) **ORS 339.250 (12) (prohibition on infliction of corporal punishment);**
- (n) **ORS 339.326 (notice concerning students subject to juvenile court petitions);**
- (o) **ORS 339.370, 339.372, 339.388 and 339.400 (reporting of child abuse and training on prevention and identification of child abuse);**
- (p) **ORS chapter 657 (Employment Department Law);**
- (q) **ORS 659.850, 659.855 and 659.860 (discrimination);**
- (r) **Any statute or rule that establishes requirements for instructional time provided by a school during each day or during a year;**
- (s) **Health and safety statutes and rules;**
- (t) **Any statute or rule that is listed in the charter;**
- (u) **Section 1, chapter 53, Oregon Laws 2010 (consideration for educational services); and**
- (v) **This chapter.**

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

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

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

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

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

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

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

(9) A public charter school may not levy taxes or issue bonds under which the public incurs liability.

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

(11) The school district in which the public charter school is located shall offer a high school diploma, a modified diploma, an extended diploma or an alternative certificate to any public charter school student who meets the district’s and state’s standards for a high school diploma, a modified diploma, an extended diploma or an alternative certificate.

(12) A high school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a public charter school grants to the holder the same rights and privileges as a high school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a nonchartered public school.

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

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

SECTION 3. ORS 338.115, as amended by section 7, chapter 839, Oregon Laws 2007, section 12, chapter 50, Oregon Laws 2008, section 4, chapter 618, Oregon Laws 2009, and section 3, chapter 53, Oregon Laws 2010, is amended to read:

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

- [(a) Federal law;]*
- [(b) ORS 192.410 to 192.505 (public records law);]*
- [(c) ORS 192.610 to 192.690 (public meetings law);]*
- [(d) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);]*
- [(e) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);]*
- [(f) ORS 337.150 (textbooks);]*
- [(g) ORS 339.141, 339.147 and 339.155 (tuition and fees);]*
- [(h) ORS 659.850, 659.855 and 659.860 (discrimination);]*
- [(i) ORS 30.260 to 30.300 (tort claims);]*
- [(j) Health and safety statutes and rules;]*
- [(k) Any statute or rule that is listed in the charter;]*
- [(L) The statewide assessment system developed by the Department of Education for mathematics, science and English under ORS 329.485 (2);]*
- [(m) ORS 329.045 (academic content standards and instruction);]*
- [(n) ORS 329.496 (physical education);]*
- [(o) Any statute or rule that establishes requirements for instructional time provided by a school during each day or during a year;]*
- [(p) ORS 339.250 (12) (prohibition on infliction of corporal punishment);]*
- [(q) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of child abuse and training on prevention and identification of child abuse);]*
- [(r) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative certificate);]*
- [(s) ORS chapter 657 (Employment Department Law);]*
- [(t) ORS 339.326;]*
- [(u) Section 1, chapter 53, Oregon Laws 2010 (consideration for educational services); and]*
- [(v) This chapter.]*
- (a) Federal law;**
- (b) ORS 30.260 to 30.300 (tort claims);**
- (c) ORS 192.410 to 192.505 (public records law);**
- (d) ORS 192.610 to 192.690 (public meetings law);**
- (e) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);**
- (f) ORS 326.565, 326.575 and 326.580 (student records);**
- (g) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);**
- (h) ORS 329.045 (academic content standards and instruction);**
- (i) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative certificate);**
- (j) ORS 329.496 (physical education);**
- (k) The statewide assessment system developed by the Department of Education for mathematics, science and English under ORS 329.485 (2);**
- (L) ORS 337.150 (textbooks);**
- (m) ORS 339.141, 339.147 and 339.155 (tuition and fees);**
- (n) ORS 339.250 (12) (prohibition on infliction of corporal punishment);**
- (o) ORS 339.326 (notice concerning students subject to juvenile court petitions);**

(p) **ORS 339.370, 339.372, 339.388 and 339.400 (reporting of child abuse and training on prevention and identification of child abuse);**

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

(r) **ORS 659.850, 659.855 and 659.860 (discrimination);**

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

(t) **Health and safety statutes and rules;**

(u) **Any statute or rule that is listed in the charter;**

(v) **Section 1, chapter 53, Oregon Laws 2010 (consideration for educational services); and**

(w) **This chapter.**

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

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

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

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

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

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

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

(9) A public charter school may not levy taxes or issue bonds under which the public incurs liability.

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

(11) The school district in which the public charter school is located shall offer a high school diploma, a modified diploma, an extended diploma or an alternative certificate to any public charter school student who meets the district’s and state’s standards for a high school diploma, a modified diploma, an extended diploma or an alternative certificate.

(12) A high school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a public charter school grants to the holder the same rights and privileges as a high school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a nonchartered public school.

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

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

SECTION 4. ORS 338.025, as amended by section 4, chapter 53, Oregon Laws 2010, and section 3, chapter 72, Oregon Laws 2010, 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 pro-

grams 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)] (u) or 338.120.

SECTION 5. ORS 338.025, as amended by section 8, chapter 839, Oregon Laws 2007, section 14, chapter 50, Oregon Laws 2008, section 5, chapter 53, Oregon Laws 2010, and section 4, chapter 72, Oregon Laws 2010, 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 [(u)] (v) or 338.120.

SECTION 6. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect July 1, 2011.

Passed by House April 11, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate May 9, 2011

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2011

Approved:

.....M.,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2011

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Kate Brown, Secretary of State