

**A-Engrossed**  
**House Bill 2299**

Ordered by the Senate June 3  
Including Senate Amendments dated June 3

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on 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 school district in which public charter school is located to be responsible for identifying, locating and evaluating students to determine which students may be in need of special education and related services. Provides for distribution of state funding to school district for those students.

Establishes notice requirements, **including notice requirements** related to special education and related services, when student enrolls in public charter school or *[no longer is enrolled in]* **withdraws from** public charter school.

Declares emergency, effective July 1, 2011.

**A BILL FOR AN ACT**

1  
2 Relating to children enrolled in public charter schools; creating new provisions; amending ORS  
3 327.297, 338.125, 338.165 and 340.073; and declaring an emergency.

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

5 **SECTION 1.** ORS 338.125 is amended to read:

6 338.125. *[(1) Student enrollment in a public charter school shall be voluntary. All students who*  
7 *reside within the school district where the public charter school is located are eligible for enrollment*  
8 *at a public charter school. If the number of applications from students who reside within the school*  
9 *district exceeds the capacity of a program, class, grade level or building, the public charter school shall*  
10 *select students through an equitable lottery selection process. However, after a public charter school*  
11 *has been in operation for one or more years, the public charter school may give priority for admission*  
12 *to students:]*

13 *[(a) Who were enrolled in the school in the prior year; or]*

14 *[(b) Who have siblings who are presently enrolled in the school and who were enrolled in the*  
15 *school in the prior year.]*

16 *[(2)(a) If space is available a public charter school may admit students who do not reside in the*  
17 *school district in which the public charter school is located.]*

18 *[(b) Notwithstanding paragraph (a) of this subsection, if a public charter school offers any online*  
19 *courses as part of the curriculum of the school, then 50 percent or more of the students who attend the*  
20 *public charter school must reside in the school district in which the public charter school is located.]*

21 *[(3) A public charter school may not limit student admission based on race, religion, sex, sexual*  
22 *orientation, ethnicity, national origin, disability, income level, proficiency in the English language or*  
23 *athletic ability, but may limit admission to students within a given age group or grade level.]*

24 **(1)(a) Student enrollment in a public charter school is voluntary.**

**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 (b) All students who reside in the school district in which the public charter school is  
2 located are eligible for enrollment in the public charter school. Students who do not reside  
3 in the school district in which the public charter school is located are eligible for enrollment  
4 if space is available and subject to subsection (2) of this section.

5 (c) A public charter school may not limit student enrollment based on race, religion, sex,  
6 sexual orientation, ethnicity, national origin, disability, the terms of an individualized edu-  
7 cation program, income level, proficiency in the English language or athletic ability.

8 (2)(a) A public charter school:

9 (A) Shall limit the enrollment of students who do not reside in the school district in  
10 which the public charter school is located if the public charter school offers any online  
11 courses as part of the curriculum of the school so that at least 50 percent of the students  
12 enrolled in the public charter school reside in the school district in which the public charter  
13 school is located;

14 (B) May limit the enrollment of students within a given age group or grade level; and

15 (C) May limit the enrollment of students if the number of applications from students  
16 exceeds the capacity of a program, class, grade level or building.

17 (b) If the number of applications for enrollment exceeds the capacity of a program, class,  
18 grade level or building, the public charter school:

19 (A) Shall select students through an equitable lottery selection process; and

20 (B) If the school has been in operation one year or longer, may give priority to students:

21 (i) Who were enrolled in the school in the prior year; or

22 (ii) Who have siblings who are presently enrolled in the school and who were enrolled in  
23 the school in the prior year.

24 (3) Within 10 days of a student's enrollment in a public charter school, the public charter  
25 school shall provide written notice of the student's enrollment to the school district in which  
26 the public charter school is located if the student does not reside in the school district where  
27 the public charter school is located.

28 (4) Within 10 days of receiving the notice described in subsection (3) of this section, the  
29 school district in which the public charter school is located shall provide to the student's  
30 parent, guardian or person in parental relationship written information about:

31 (a) The school district's responsibility to identify, locate and evaluate students enrolled  
32 in the public charter school to determine which students may be in need of special education  
33 and related services as provided by ORS 338.165; and

34 (b) The methods by which the school district may be contacted to answer questions or  
35 provide information related to special education and related services.

36 (5) When a student described in subsection (3) of this section withdraws from a public  
37 charter school for a reason other than graduation from high school, the school district in  
38 which the public charter school is located shall:

39 (a) Provide to the school district in which the student resides written notice that the  
40 student has withdrawn.

41 (b) Provide to the student's parent, guardian or person in parental relationship written  
42 information about:

43 (A) The responsibility of the school district in which the student resides to identify, lo-  
44 cate and evaluate students who reside in the school district to determine which students  
45 may be in need of special education and related services as provided by ORS 338.165; and

1       **(B) The methods by which the school district in which the student resides may be con-**  
2 **tacted to answer questions or provide information related to special education and related**  
3 **services.**

4       **(6)(a) If a student described in subsection (3) of this section enrolls in a public charter**  
5 **school and has an individualized education program, the school district in which the public**  
6 **charter school is located must implement the individualized education program and follow**  
7 **the terms of the individualized education program until a new individualized education pro-**  
8 **gram is developed.**

9       **(b) If a student described in subsection (3) of this section withdraws from a public char-**  
10 **ter school and has an individualized education program, the school district in which the**  
11 **student resides must implement the individualized education program and follow the terms**  
12 **of the individualized education program until a new individualized education program is de-**  
13 **veloped.**

14       [(4)] **(7) A public charter school may conduct fund-raising activities[. *However, a public charter***  
15 ***school*] but may not require a student to participate in fund-raising activities as a condition of ad-**  
16 **mission to the public charter school.**

17       **SECTION 2. The amendments to ORS 338.125 by section 1 of this 2011 Act first apply to**  
18 **the 2011-2012 school year.**

19       **SECTION 3.** ORS 338.165 is amended to read:

20       338.165. [(1) *Notwithstanding ORS 338.155 (1), For purposes of this section, the “resident school*  
21 *district” of a student who is eligible for special education and related services shall be the school dis-*  
22 *trict in which the student’s parent or guardian or person in parental relationship to the student resides*  
23 *pursuant to ORS 339.133 and 339.134.*]

24       [(2) *For students who attend public charter schools and are eligible for special education and re-*  
25 *lated services:*]

26       [(a) *The resident school district of the student shall be responsible for providing any required*  
27 *special education and related services to the student; and*]

28       [(b) *Amounts from the State School Fund for those students shall be distributed through the resi-*  
29 *dent school district pursuant to this section.*]

30       **(1)(a) The school district in which a public charter school is located shall identify, locate**  
31 **and evaluate students enrolled in the public charter school to determine which students may**  
32 **be in need of special education and related services.**

33       **(b) The school district in which a public charter school is located:**

34       **(A) Shall receive funding from the State School Fund as provided by this section for**  
35 **students who are eligible for special education and related services and who are enrolled in**  
36 **the public charter school; and**

37       **(B) Is eligible to receive high cost disabilities grants as provided by ORS 327.348 for stu-**  
38 **dents who are enrolled in the public charter school.**

39       **(c) Students who are eligible for special education and related services shall be considered**  
40 **students of the school district in which the public charter school is located for purposes of**  
41 **data collection and reporting.**

42       [(3)] **(2) [Notwithstanding ORS 338.155 (2), a resident school district of a student who is eligible**  
43 ***for special education and related services shall contractually establish, with any public charter school***  
44 ***in which the student is enrolled, payment for provision of special education and related services to the***  
45 ***student.*] If a student is enrolled in a public charter school and is eligible for special education and**

1 related services, an additional amount shall be added to the ADM of the public charter school as  
2 described in ORS 327.013 (1)(c)(A)(i). The payment per ADMw in the public charter school that is  
3 attributable to the student who is eligible for special education and related services shall equal an  
4 amount that is at least equal to:

5 (a) 40 percent of the amount of the [*school district's*] General Purpose Grant per ADMw **for the**  
6 **school district in which the public charter school is located**, as calculated under ORS 327.013,  
7 for students who are enrolled in kindergarten through grade eight; and

8 (b) 47.5 percent of the amount of the [*school district's*] General Purpose Grant per ADMw **for**  
9 **the school district in which the public charter school is located**, as calculated under ORS  
10 327.013, for students who are enrolled in grades 9 through 12.

11 [(4)] (3) If the [*resident school district is not*] **State Board of Education** is the sponsor of a  
12 public charter school, the [*resident*] school district **in which the public charter school is located**,  
13 for each ADMw that is attributable to a student enrolled in a public charter school who is eligible  
14 for special education and related services, shall transfer five percent of the amount of the school  
15 district's General Purpose Grant per ADMw as calculated under ORS 327.013 to the [*sponsor of the*  
16 *public charter school*] **State Board of Education**.

17 [(5)] (4) Notwithstanding subsection [(3)] (2) of this section, a school district and a public charter  
18 school may negotiate on a case-by-case basis for an alternative distribution of funds other than the  
19 distribution prescribed by subsection [(3)] (2) of this section.

20 (5) **Payments under this section must be made within 10 days after a school district re-**  
21 **ceives payment from the State School Fund pursuant to ORS 327.095.**

22 **SECTION 4. The amendments to ORS 338.165 by section 3 of this 2011 Act apply to State**  
23 **School Fund distributions and high cost disabilities grant distributions beginning with the**  
24 **2011-2012 school year distributions.**

25 **SECTION 5.** ORS 327.297 is amended to read:

26 327.297. (1) In addition to those moneys distributed through the State School Fund, the Depart-  
27 ment of Education shall award grants to school districts, education service districts, the Youth  
28 Corrections Education Program and the Juvenile Detention Education Program for activities that  
29 relate to increases in student achievement, including:

30 (a) Early childhood support including establishing, maintaining or expanding quality  
31 prekindergarten programs and full-day kindergarten programs;

32 (b) Class size reduction with an emphasis (b) on the reduction of kindergarten through grade three  
33 class sizes;

34 (c) Increases in instructional time including summer programs and before- and after-school pro-  
35 grams;

36 (d) Mentoring, teacher retention and professional development;

37 (e) Remediation, alternative learning and student retention;

38 (f) Services to at-risk youth;

39 (g) Programs to improve a student achievement gap between student groups identified by cul-  
40 ture, poverty, language and race and other student groups;

41 (h) Vocational education programs;

42 (i) Literacy programs;

43 (j) School library programs; and

44 (k) Other research-based student improvement strategies approved by the State Board of Edu-  
45 cation.

1 (2)(a) Each school district, each education service district, the Youth Corrections Education  
2 Program and the Juvenile Detention Education Program may apply to the Department of Education  
3 for a grant.

4 (b) The department shall review and approve applications based on criteria established by the  
5 State Board of Education. In establishing the criteria, the State Board of Education shall consider  
6 the recommendations of the Quality Education Commission established under ORS 327.500.

7 (c) The applications shall include the activities to be funded and the goals of the district or  
8 program for increases in student performance. The applications shall become part of the local dis-  
9 trict continuous improvement plan described in ORS 329.095.

10 (3) The Department of Education shall evaluate the annual progress of each recipient of grant  
11 funds under this section toward the performance targets established by the Quality Education  
12 Commission. The evaluation shall become part of the requirements of the department for assessing  
13 the effectiveness of the district under ORS 329.085, 329.095 and 329.105. The department shall ensure  
14 district and program accountability by providing appropriate assistance, intervening and establish-  
15 ing consequences in order to support progress toward the performance targets.

16 (4) Each biennium the Department of Education shall issue a report to the Legislative Assembly  
17 on the grant program and the results of the grant program.

18 (5)(a) Notwithstanding ORS 338.155 (9), the Department of Education may not award a grant  
19 under this section directly to a public charter school.

20 (b) A school district that receives a grant under this section may transfer a portion of the grant  
21 to a public charter school based on the charter of the school or any other agreement between the  
22 school district and the public charter school.

23 (c) A public charter school that receives grant funds under this subsection shall use those funds  
24 for the activities specified in subsection (1) of this section.

25 (6)(a) The amount of each grant for a program or school district = the program's or school  
26 district's ADMw  $\times$  (the total amount available for distribution to programs and school districts as  
27 grants in each fiscal year  $\div$  the total ADMw of all programs and school districts that receive a  
28 grant).

29 (b) The amount of each grant for an education service district = the education service district's  
30 ADMw  $\times$  (the total amount available for distribution to education service districts as grants in  
31 each fiscal year  $\div$  the total ADMw of all education service districts that receive a grant).

32 (c) As used in this subsection, "ADMw" means:

33 (A) For a school district, the extended weighted average daily membership as calculated under  
34 ORS 327.013, 338.155 (1) and 338.165 [(3)] (2);

35 (B) For the Youth Corrections Education Program, the average daily membership as defined in  
36 ORS 327.006 multiplied by 2.0;

37 (C) For the Juvenile Detention Education Program, the average daily membership as defined in  
38 ORS 327.006 multiplied by 1.5; and

39 (D) For an education service district, the sum of the ADMw of the component school districts  
40 of the education service district.

41 (7) Each district or program shall deposit the grant amounts it receives under this section in a  
42 separate account, and shall apply amounts in that account to pay for activities described in the  
43 district's or program's application.

44 (8) The State Board of Education may adopt any rules necessary for the administration of the  
45 grant program.

1        **SECTION 6.** ORS 340.073 is amended to read:

2        340.073. (1) A public charter school may elect to participate in the Expanded Options Program  
3 by amending its charter under ORS 338.065.

4        (2) Actual instructional costs associated with participating eligible students shall be negotiated  
5 and paid directly to the eligible post-secondary institution by the public charter school.

6        (3) The participating public charter school may not require funding from the sponsor of the  
7 school for payment of Expanded Options Program costs that is in addition to funding that already  
8 has been contractually established pursuant to ORS 338.155 (2)(b) or (3)(b) or 338.165 [(3)(b)] **(2)(b)**.

9        **SECTION 7. This 2011 Act being necessary for the immediate preservation of the public**  
10 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
11 **July 1, 2011.**

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