

House Bill 2417

Sponsored by Representative PARRISH; Representative NEARMAN (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 **as introduced**.

Allows public charter school to change sponsorship if charter is terminated.

A BILL FOR AN ACT

1
2 Relating to public charter schools; creating new provisions; and amending ORS 332.016, 338.005,
3 338.035, 338.105, 338.115, 338.155 and 338.165.

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

5 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS chapter 338.**

6 **SECTION 2. (1) A public charter school governing body may change sponsorship as pro-**
7 **vided by this section if a charter for a public charter school is terminated as provided by**
8 **ORS 338.105 (1)(a) or (b) or (5).**

9 **(2) A public charter school governing body may seek a change in sponsorship by submit-**
10 **ting to the school district board of a school district that was not the sponsor of the public**
11 **charter school a written proposal that includes:**

12 **(a) The charter that governed the public charter school prior to termination;**

13 **(b) Any information or notices received by the public charter school governing body re-**
14 **lated to the termination; and**

15 **(c) Any other information requested by the school district board.**

16 **(3) Upon receipt of the information described in subsection (2) of this section, the school**
17 **district board may evaluate the proposal and approve or disapprove the proposal using the**
18 **criteria described in ORS 338.055 (3)(b) to (i).**

19 **(4)(a) The following decisions by a school district board that receives a proposal under**
20 **this section are final and not subject to appeal:**

21 **(A) Whether to evaluate the proposal for a public charter school; and**

22 **(B) The approval or disapproval of the proposal for a public charter school.**

23 **(b) The process by which a school district board makes a decision described in paragraph**
24 **(a) of this subsection is not subject to appeal.**

25 **(5) Within 60 days after receiving a proposal, the school district board must notify in**
26 **writing the public charter school governing body whether the school district board approves**
27 **or disapproves the proposal.**

28 **(6) A school district board that approves a proposal submitted as provided by this section**
29 **is not bound by the terms of the charter that were in effect before the charter was termi-**
30 **nated.**

31 **(7) If a school district board approves a proposal as provided by this section, the school**
32 **district board shall become the sponsor of the public charter school, and the public charter**

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 school may continue to operate in its existing location under a charter entered into by the
 2 school district board and the public charter school governing body.

3 (8) Notwithstanding a proposed effective date of termination, a public charter school may
 4 continue to operate for 60 days after the proposed effective date if a school district board
 5 approved a proposal for a change in sponsorship as provided by this section prior to the
 6 proposed effective date. During the 60 days, the initial sponsor shall remain the sponsor of
 7 the public charter school.

8 (9) A charter entered into as provided by this section is legally binding on both the
 9 sponsor and the public charter school governing body. The sponsor and the public charter
 10 school governing body may amend a charter by joint agreement.

11 (10) The initial period of a charter entered into as provided by this section shall be for a
 12 length of time agreed to by the sponsor and the public charter school governing body. Re-
 13 newals of the charter shall be subject to ORS 338.065, except that the first renewal of the
 14 charter may be for a length of time agreed to by the sponsor and the public charter school
 15 governing body.

16 **SECTION 3.** ORS 338.005 is amended to read:

17 338.005. As used in this chapter, unless the context requires otherwise:

18 (1) “Applicant” means any person or group that develops and submits a written proposal for a
 19 public charter school to a sponsor.

20 (2) “Institution of higher education” means a community college operated under ORS chapter
 21 341, a public university listed in ORS 352.002 or the Oregon Health and Science University.

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

25 (4) “Remote and necessary school district” means a school district that offers kindergarten
 26 through grade 12 and has:

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

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

31 (5) “Sponsor” means:

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

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

36 (c) An institution of higher education pursuant to ORS 338.075.

37 (6)(a) “Virtual public charter school” means a public charter school that provides online
 38 courses.

39 (b) “Virtual public charter school” does not include a public charter school that primarily serves
 40 students in a physical location.

41 **SECTION 4.** ORS 338.035 is amended to read:

42 338.035. (1) A public charter school may be established:

43 (a) As a new public school;

44 (b) As a virtual public charter school;

45 (c) From an existing public school or a portion of the school; or

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

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

(A) Be approved by a sponsor;

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

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

(b) Notwithstanding paragraph (a) of this subsection, the requirements of paragraph (a)(B) and (C) of this subsection do not apply to:

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

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

(3)(a) Except for a public charter school that is not required to comply with subsection (2)(a)(B) and (C) of this section as provided by subsection (2)(b) of this section, a *[member of the school district board of the school district within which a public charter school is located]* **person** may not be a voting member of *[the]* a public charter school governing body*[,]* **if the person is:**

(A) A member of the school district board of the school district within which the public charter school is located; or

(B) A member of the governing body of the sponsor or proposed sponsor of the public charter school.

(b) A *[member of the school district board of the school district within which a public charter school is located]* **person who is prohibited from being a voting member of a public charter school governing body as provided by paragraph (a) of this subsection** may act in an advisory capacity on the public charter school governing body.

(4) An applicant seeking to establish a public charter school shall submit a proposal pursuant to ORS 338.045 to the school district board of the school district within which the public charter school will be located by the date identified by the school district board. The school district board shall identify a date that is at least 180 days prior to the date on which the public charter school would begin operating and that provides a reasonable period of time for the school district board to complete the approval process described in ORS 338.055 and for the public charter school to begin operating by the beginning of a school year. An applicant may consult with the school district board prior to submitting a proposal, and the school district board may require an applicant to submit a letter of intent within a reasonable period of time prior to submitting a proposal.

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

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

(b) Notwithstanding paragraph (a) of this subsection, a school in a school district that is composed of only one school may become a public charter school. For a public charter school that is the only school in the school district, the public charter school and the school district may be considered to be a single legal entity for the purposes of this chapter if:

(A) The public charter school is not required to comply with subsection (2)(a)(B) and (C) of this section;

(B) All of the members of the school district board are voting members of the public charter school governing body as allowed by subsection (3)(a) of this section;

(C) The school district and the public charter school share employees; and

1 (D) The school district and the public charter school share assets and liabilities.

2 (7)(a) An entity described in ORS 338.005 (5) may not approve a public charter school proposal
3 that authorizes the conversion of any private school that is tuition based to a public charter school.

4 (b) Notwithstanding paragraph (a) of this subsection, an entity described in ORS 338.005 (5) may
5 authorize the conversion of an existing alternative education program, as defined in ORS 336.615,
6 to a public charter school.

7 (8) An entity described in ORS 338.005 (5) may not approve a proposal for a public charter
8 school that is affiliated with a nonpublic sectarian school or a religious institution.

9 **SECTION 5.** ORS 338.105 is amended to read:

10 338.105. (1) During the term of a charter, the sponsor may terminate the charter on any of the
11 following grounds:

12 (a) Failure to meet the terms of an approved charter or this chapter.

13 (b) Failure to meet the requirements for student performance stated in the charter.

14 (c) Failure to correct a violation of a federal or state law that is described in ORS 338.115.

15 (d) Failure to maintain insurance as described in the charter.

16 (e) Failure to maintain financial stability.

17 (f) Failure to maintain, for one or more consecutive years, a sound financial management system
18 described in the proposal submitted under ORS 338.045 and incorporated into the written charter
19 under ORS 338.065.

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

23 (b) If the grounds for termination include failure to maintain financial stability or failure to
24 maintain a sound financial management system, the sponsor and the public charter school may agree
25 to develop a plan to correct deficiencies. Under a plan to correct deficiencies:

26 (A) The public charter school may attempt to correct any deficiencies related to financial sta-
27 bility or to a sound financial management system by a date identified by the sponsor, which may
28 not be less than 60 days from the date of the notice;

29 (B) The proposed effective date of the termination may be extended to the date identified under
30 subparagraph (A) of this paragraph;

31 (C) The sponsor may withhold up to 50 percent of the moneys owed to the public charter school
32 while the public charter school is on the plan to correct deficiencies unless the withholding would
33 create an undue hardship, as determined pursuant to rules of the State Board of Education; and

34 (D) The sponsor must hold in trust any moneys withheld under subparagraph (C) of this para-
35 graph until:

36 (i) The public charter school complies with the plan to correct deficiencies, at which time the
37 public charter school is entitled to the moneys held in trust; or

38 (ii) The public charter school fails to comply with the plan to correct deficiencies, at which time
39 the charter is terminated and the public charter school forfeits any claim to the moneys held in
40 trust.

41 (c) A deadline to correct deficiencies under paragraph (b)(A) of this subsection may be extended
42 by mutual agreement of the sponsor and the public charter school.

43 (d) The public charter school governing body may request a hearing by the sponsor in relation
44 to a termination of the charter or a plan to correct deficiencies.

45 (3) **When a sponsor terminates a charter as provided by subsection (1) of this section, a**

1 public charter school governing body may appeal [*a decision of a sponsor under this section. The*
 2 *appeal shall be*] **the decision of the termination** to:

3 (a) The State Board of Education if the sponsor is an entity described in ORS 338.005 (5)(a) or
 4 (c). The State Board of Education shall:

5 (A) Review only:

6 (i) The grounds for termination under this section as stated by the school district board; or

7 (ii) A plan to correct deficiencies; and

8 (B) Adopt by rule procedures to ensure a timely appeals process to prevent disruption of
 9 students' education.

10 (b) The circuit court pursuant to ORS 183.484 if the sponsor is the State Board of Education.

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

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

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

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

23 **(5) During the term of a charter, the sponsor and the public charter school governing**
 24 **body may terminate the charter by mutual agreement.**

25 [(5)] (6) Termination of a charter shall not abridge the public charter school's legal authority
 26 to operate as a private or nonchartered public school.

27 **(7) If a charter is terminated under subsection (1)(a) or (b) or (5) of this section, the**
 28 **public charter school governing body may:**

29 **(A) Seek a change in sponsorship by submitting a written proposal to a school district**
 30 **board that was not the sponsor of the public charter school as provided by section 2 of this**
 31 **2017 Act; or**

32 **(B) Close and dissolve the school as provided by subsection (9)(a) of this section.**

33 **(8) A public charter school governing body may terminate a charter or may close and**
 34 **dissolve a public charter school. Termination or closure and dissolution may occur only at**
 35 **the end of a semester. If the public charter school governing body decides to terminate a**
 36 **charter or to close and dissolve a public charter school, the public charter school governing**
 37 **body shall notify the sponsor at least 180 days prior to the proposed effective date of the**
 38 **termination or closure and dissolution.**

39 [(6)] **(9)(a) [If a charter is terminated or a public charter school is dissolved:] If a public charter**
 40 **school is closed and dissolved or if a charter is terminated and the public charter school**
 41 **governing body does not seek a change in sponsorship as provided by section 2 of this 2017**
 42 **Act within 60 days of the effective date of the termination:**

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

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

3 **(b) If the public charter school governing body seeks a change in sponsorship as provided**
 4 **by section 2 of this 2017 Act within 60 days of the effective date of the termination or clo-**
 5 **sure, the assets and student education records of the public charter school shall remain with**
 6 **the public charter school. If a new charter is not entered into within 60 days of the effective**
 7 **date of the termination or closure, the assets shall be disbursed, and student education re-**
 8 **ords shall be transferred, as provided by paragraph (a) of this subsection.**

9 [(7) *A public charter school governing body may only terminate a charter, dissolve or close a public*
 10 *charter school at the end of a semester. If a charter is terminated by the public charter school gov-*
 11 *erning body or a public charter school is closed or dissolved, the public charter school governing body*
 12 *shall notify the sponsor at least 180 days prior to the proposed effective date of the termination, closure*
 13 *or dissolution.*]

14 **SECTION 6.** ORS 338.115, as amended by section 7, chapter 839, Oregon Laws 2007, section 12,
 15 chapter 50, Oregon Laws 2008, section 4, chapter 618, Oregon Laws 2009, section 3, chapter 53,
 16 Oregon Laws 2010, section 3, chapter 94, Oregon Laws 2011, section 118, chapter 637, Oregon Laws
 17 2011, section 5, chapter 682, Oregon Laws 2011, section 10, chapter 92, Oregon Laws 2012, section
 18 7, chapter 98, Oregon Laws 2013, section 14, chapter 265, Oregon Laws 2013, section 9, chapter 267,
 19 Oregon Laws 2013, section 2, chapter 67, Oregon Laws 2015, and section 48, chapter 245, Oregon
 20 Laws 2015, is amended to read:

21 338.115. (1) Statutes and rules that apply only to school district boards, school districts or other
 22 public schools do not apply to public charter schools. However, the following laws do apply to public
 23 charter schools:

- 24 (a) Federal law;
- 25 (b) ORS 30.260 to 30.300 (tort claims);
- 26 (c) ORS 192.410 to 192.505 (public records law);
- 27 (d) ORS 192.610 to 192.690 (public meetings law);
- 28 (e) ORS chapters 279A, 279B and 279C (Public Contracting Code);
- 29 (f) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);
- 30 (g) ORS 326.565, 326.575 and 326.580 (student records);
- 31 (h) ORS 181A.195, 326.603, 326.607 and 342.223 (criminal records checks);
- 32 (i) ORS 329.045 (academic content standards and instruction);
- 33 (j) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative cer-
- 34 tificate);
- 35 (k) ORS 329.496 (physical education);
- 36 (L) The statewide assessment system developed by the Department of Education for mathemat-
- 37 ics, science and English under ORS 329.485 (2);
- 38 (m) ORS 336.840 (use of personal electronic devices);
- 39 (n) ORS 337.150 (textbooks);
- 40 (o) ORS 339.119 (consideration for educational services);
- 41 (p) ORS 339.141, 339.147 and 339.155 (tuition and fees);
- 42 (q) ORS 339.250 (9) (prohibition on infliction of corporal punishment);
- 43 (r) ORS 339.326 (notice concerning students subject to juvenile court petitions);
- 44 (s) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of abuse and sexual conduct and training
- 45 on prevention and identification of abuse and sexual conduct);

- 1 (t) ORS 342.856 (core teaching standards);
- 2 (u) ORS chapter 657 (Employment Department Law);
- 3 (v) ORS 659.850, 659.855 and 659.860 (discrimination);
- 4 (w) Any statute or rule that establishes requirements for instructional time provided by a school
- 5 during each day or during a year;
- 6 (x) Statutes and rules that expressly apply to public charter schools;
- 7 (y) Statutes and rules that apply to a special government body, as defined in ORS 174.117, or a
- 8 public body, as defined in ORS 174.109;
- 9 (z) Health and safety statutes and rules;
- 10 (aa) Any statute or rule that is listed in the charter; and
- 11 (bb) This chapter.

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

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

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

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

21 (b) For a public charter school that provides educational services under a cooperative agree-
22 ment described in ORS 338.080, the public charter school is in compliance with the requirements of
23 this subsection if the public charter school provides educational services under the cooperative
24 agreement to at least 25 students, without regard to the school districts in which the students are
25 residents.

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

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

31 (8) A public charter school may enter into contracts and may lease facilities and services from
32 a school district, education service district, public university listed in ORS 352.002, other govern-
33 mental unit or any person or legal entity.

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

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

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

42 **(b) Notwithstanding paragraph (a) of this subsection, if the sponsorship of a public**
43 **charter school was changed as provided by section 2 of this 2017 Act, the school district that**
44 **is the sponsor of the public charter school shall offer a high school diploma, a modified di-**
45 **ploma, an extended diploma or an alternative certificate to any public charter school student**

1 **who meets the district's and state's standards for a high school diploma, a modified diploma,**
 2 **an extended diploma or an alternative certificate.**

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

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

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

12 **SECTION 7.** ORS 338.155 is amended to read:

13 338.155. (1)(a) Students of a public charter school shall be considered to be residents of the
 14 school district in which the public charter school is located for purposes of distribution of the State
 15 School Fund.

16 (b) All amounts to be distributed from the State School Fund for public charter schools shall
 17 first be distributed to the school district in which the public charter school is located.

18 (c) For the purpose of determining the amounts to be distributed to a school district from the
 19 State School Fund for a public charter school, the district extended ADMw described in ORS 327.013
 20 shall be calculated:

21 (A) Except as provided by subparagraph (B) of this paragraph, as though the students enrolled
 22 at a public charter school are students enrolled at the public schools of the school district in which
 23 the public charter school is located.

24 (B) By not including any portion of the ADM of the public charter school for the previous school
 25 year if the public charter school ceased to operate because of dissolution or closure or because of
 26 termination or nonrenewal of a charter.

27 (2) A school district shall contractually establish, with any public charter school that is spon-
 28 sored by the board of the school district **and that is within the boundaries of the school**
 29 **district**, payment for provision of educational services to the public charter school's students. The
 30 payment shall equal an amount per weighted average daily membership (ADMw) of the public
 31 charter school that is at least equal to:

32 (a) Eighty percent of the amount of the school district's General Purpose Grant per ADMw as
 33 calculated under ORS 327.013 for students who are enrolled in kindergarten through grade eight;
 34 and

35 (b) Ninety-five percent of the amount of the school district's General Purpose Grant per ADMw
 36 as calculated under ORS 327.013 for students who are enrolled in grades 9 through 12.

37 (3) A school district shall contractually establish, with any public charter school that is spon-
 38 sored by the State Board of Education, **a school district board as provided by section 2 of this**
 39 **2017 Act** or an institution of higher education and that is within the boundaries of the school dis-
 40 trict, payment for provision of educational services to the public charter school's students. The
 41 payment shall equal an amount per weighted average daily membership (ADMw) of the public
 42 charter school that is at least equal to:

43 (a) Ninety percent of the amount of the school district's General Purpose Grant per ADMw as
 44 calculated under ORS 327.013 for students who are enrolled in kindergarten through grade eight;
 45 and

1 (b) Ninety-five percent of the amount of the school district's General Purpose Grant per ADMw
2 as calculated under ORS 327.013 for students who are enrolled in grades 9 through 12.

3 (4) The estimated amount of each school district's General Purpose Grant per ADMw shall be
4 determined each year by the Department of Education and made available to all school districts.

5 (5) The school district in which the public charter school is located shall transfer an amount
6 per weighted average daily membership (ADMw) of the public charter school that is equal to 50
7 percent of the amount of the school district's General Purpose Grant per ADMw as calculated under
8 ORS 327.013 that is not paid to the public charter school through a contract created pursuant to
9 subsection (3) of this section to:

10 (a) For a public charter school sponsored by the State Board of Education, the Department of
11 Education; or

12 (b) For a public charter school sponsored by an institution of higher education, the institution
13 of higher education.

14 (6) The department may use any moneys received under this section for activities related to
15 public charter schools.

16 (7) A school district and a public charter school may negotiate to establish a payment for the
17 provision of educational services to the public charter school's students that is more than the min-
18 imum amounts specified in subsection (2) or (3) of this section.

19 (8) A school district shall send payment to a public charter school based on a contract negoti-
20 ated under this section within 10 days after receiving payments from the State School Fund pursuant
21 to ORS 327.095.

22 (9)(a) A public charter school may apply for any grant that is available to school districts or
23 nonchartered public schools from the Department of Education. The department shall consider the
24 application of the public charter school in the same manner as an application from a school district
25 or nonchartered public school.

26 (b) The department shall award any grant that is available to school districts based solely on
27 the weighted average daily membership (ADMw) of the school district directly to the public charter
28 school. This paragraph does not apply to any grant from the State School Fund.

29 **SECTION 8.** ORS 338.165 is amended to read:

30 338.165. (1)(a) The school district in which a public charter school is located shall identify, lo-
31 cate 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 students
35 who are eligible for special education and related services and who are enrolled in the public
36 charter school; and

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

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

42 (2) If a student is enrolled in a public charter school and is eligible for special education and
43 related services, an additional amount shall be added to the ADM of the public charter school as
44 described in ORS 327.013 (1)(c)(A)(i). The payment per ADMw in the public charter school that is
45 attributable to the student who is eligible for special education and related services shall equal an

1 amount that is at least equal to:

2 (a) 40 percent of the amount of the General Purpose Grant per ADMw for the school district in
3 which the public charter school is located, as calculated under ORS 327.013, for students who are
4 enrolled in kindergarten through grade eight; and

5 (b) 47.5 percent of the amount of the General Purpose Grant per ADMw for the school district
6 in which the public charter school is located, as calculated under ORS 327.013, for students who are
7 enrolled in grades 9 through 12.

8 *[(3) If the State Board of Education is the sponsor of a public charter school, the school district
9 in which the public charter school is located, for each ADMw that is attributable to a student enrolled
10 in a public charter school who is eligible for special education and related services, shall transfer five
11 percent of the amount of the school district's General Purpose Grant per ADMw as calculated under
12 ORS 327.013 to the State Board of Education.]*

13 *[(4)]* (3) Notwithstanding subsection (2) of this section, a school district and a public charter
14 school may negotiate on a case-by-case basis for an alternative distribution of funds other than the
15 distribution prescribed by subsection (2) of this section.

16 *[(5)]* (4) Payments under this section must be made within 10 days after a school district receives
17 payment from the State School Fund pursuant to ORS 327.095.

18 **SECTION 9.** ORS 332.016 is amended to read:

19 332.016. (1) A person who is an employee of a school district may not serve as a member of the
20 district school board for the district by which the employee is employed.

21 (2) A person who is an employee of a public charter school may not serve as a member of the
22 district school board of the district:

23 (a) In which the public charter school that employs the person is located[.]; **or**

24 (b) **That is the sponsor of the public charter school, as provided by section 2 of this 2017**
25 **Act.**

26 *[(3) Notwithstanding subsection (1) or (2) of this section, a person who is an employee of a school
27 district or a public charter school may serve as a member of the district school board for the district
28 by which the employee is employed or the district in which the public charter school that employs the
29 person is located if:]*

30 **(3) The prohibitions described in subsection (1) and (2) of this section do not apply if:**

31 (a) The person is employed by the district or public charter school as a substitute school bus
32 driver; and

33 (b) The district has an average daily membership (ADM), as defined in ORS 327.006, of 50 or
34 less.

35 (4) A district school board member who was eligible to serve on a district school board under
36 subsection (3) of this section at the beginning of the member's term of office may continue to serve
37 on the board for the remainder of the member's term of office regardless of any change to the ADM
38 of the district.