

(Including Amendments to Resolve Conflicts)

# A-Engrossed House Bill 2954

Ordered by the Senate June 7  
Including Senate Amendments dated June 7

Sponsored by Representative MCLAIN; Representative REARDON, Senators DEMBROW, RILEY, STEINER  
HAYWARD

## 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.

Allows public charter school to implement weighted lottery that favors historically underserved students when number of applications for enrollment exceeds capacity of program, class, grade level or building.

Allows public charter school to give enrollment preference to students who were enrolled in public preschool or prekindergarten program operated by public charter school and to students who are at risk because of economic or academic disadvantage that requires special services or assistance.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1 Relating to public charter school enrollment; amending ORS 338.125; and declaring an emergency.

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

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

4 338.125. (1) Student enrollment in a public charter school is voluntary.

5 (2)(a) All students who reside in the school district in which the public charter school is located  
6 are eligible for enrollment in the public charter school if space is available.

7 (b) Students who do not reside in the school district in which the public charter school is lo-  
8 cated are eligible for enrollment in the public charter school if space is available and subject to  
9 subsection (4) of this section.

10 (c) A public charter school may not limit student enrollment based on race, religion, sex, sexual  
11 orientation, ethnicity, national origin, disability, the terms of an individualized education program,  
12 income level, proficiency in the English language or athletic ability. **A public charter school may  
13 implement a weighted lottery that favors historically underserved students as provided by  
14 subsection (3)(a) of this section.**

15 (3)(a) Except as provided by paragraphs (b) and (c) of this subsection, if the number of applica-  
16 tions from students [*who reside in the school district*] exceeds the capacity of a program, class, grade  
17 level or building, the public charter school shall select students through an equitable lottery se-  
18 lection process. **For the purpose of ameliorating the impact of discrimination against histor-  
19 ically underserved students, an equitable lottery selection process may include weights that  
20 favor historically underserved students. As used in this paragraph, "historically underserved  
21 students" are students who are at risk because of any combination of their race, sex, sexual  
22 orientation, ethnicity, disability, income level, proficiency in the English language,  
23**

**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 **socioeconomic status or geographic location.**

2 (b)(A) A public charter school may give priority for admission to students who reside within the  
3 attendance boundaries that were in effect at the time a school district closed a nonchartered public  
4 school if:

5 (i) The public charter school began to operate not more than two years after the nonchartered  
6 public school was closed;

7 (ii) The school district that closed the nonchartered public school is the sponsor of the public  
8 charter school;

9 (iii) The public charter school is physically located within the attendance boundaries of the  
10 closed nonchartered public school; and

11 (iv) The school district board, through board action, approved the public charter school giving  
12 priority as described in this paragraph.

13 (B) Nothing in this paragraph requires an amendment to a charter. A school district board may  
14 take an action described in subparagraph (A)(iv) of this paragraph at any time during the term of  
15 a charter.

16 (c) After a public charter school has been in operation for one or more years, the public charter  
17 school may give priority for admission to students who:

18 (A) Were enrolled [*in the school*] in the prior year **in the public charter school;**

19 **(B) Were enrolled in a public preschool or prekindergarten program operated by the**  
20 **public charter school;**

21 [*B*] (C) Have siblings who are presently enrolled in the school and who were enrolled in the  
22 school in the prior year; [*or*]

23 **(D) Are at risk because the student has an economic or academic disadvantage that re-**  
24 **quires special services or assistance, including students who:**

25 **(i) Are from economically disadvantaged families;**

26 **(ii) Are identified as having special educational needs;**

27 **(iii) Are limited in proficiency in the English language;**

28 **(iv) Are at risk of dropping out of high school; or**

29 **(v) Do not meet minimum standards of academic proficiency; or**

30 [*C*] (E) If the public charter school is a party to a cooperative agreement described in ORS  
31 338.080, reside in the school district that is the sponsor of the public charter school or in a school  
32 district that is a party to the cooperative agreement.

33 (4)(a) A student who wishes to enroll in a virtual public charter school does not need the ap-  
34 proval of the school district where the student is a resident before the student enrolls in the virtual  
35 public charter school. If a student wishes to enroll in a virtual public charter school, the parent,  
36 legal guardian or person in parental relationship with the student must provide the following notices  
37 to the school district where the student is a resident:

38 (A) Intent to enroll the student in a virtual public charter school; and

39 (B) Enrollment of the student in a virtual public charter school.

40 (b)(A) Notwithstanding paragraph (a) of this subsection and ORS 339.133, if more than three  
41 percent of the students who reside in a school district are enrolled in virtual public charter schools  
42 that are not sponsored by the school district, a student who is a resident of the school district must  
43 receive approval from the school district before enrolling in a virtual public charter school. A school  
44 district is not required to give approval if more than three percent of the students who reside in the  
45 school district are enrolled in virtual public charter schools that are not sponsored by the school

1 district.

2 (B) For the purpose of determining whether more than three percent of the students who reside  
3 in the school district are enrolled in virtual public charter schools that are not sponsored by the  
4 school district, the school district board shall include any students who:

5 (i) Reside in the school district, regardless of whether the students are considered residents of  
6 different school districts as provided by ORS 339.133 (5); and

7 (ii) Are enrolled in virtual public charter schools that are not sponsored by the school district.

8 (C) Students who reside in the school district, regardless of whether the students are considered  
9 residents of different school districts as provided by ORS 339.133 (5), must receive approval from the  
10 school district before enrolling in a virtual public charter school if the limit described in subpara-  
11 graph (A) of this paragraph has been met.

12 (c) If the school district does not give approval under paragraph (b) of this subsection, the  
13 school district must provide information to the parent, legal guardian or person in parental re-  
14 lationship with the student about the right to appeal the decision to the State Board of Education  
15 and other online options available to the student. If an appeal is made to the State Board of Edu-  
16 cation, the board must issue a decision within 30 days of the submission of the appeal.

17 (5) Within 10 days of a student's enrollment in a public charter school, the public charter school  
18 shall provide written notice of the student's enrollment to the school district in which the public  
19 charter school is located if the student does not reside in the school district where the public  
20 charter school is located.

21 (6) Within 10 days of receiving the notice described in subsection (5) of this section, the school  
22 district in which the public charter school is located shall provide to the student's parent, legal  
23 guardian or person in parental relationship written information about:

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

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

29 (7) When a student described in subsection (5) of this section withdraws from a public charter  
30 school for a reason other than graduation from high school, the school district in which the public  
31 charter school is located shall:

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

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

36 (A) The responsibility of the school district in which the student resides to identify, locate and  
37 evaluate students who reside in the school district to determine which students may be in need of  
38 special education and related services as provided by ORS 338.165; and

39 (B) The methods by which the school district in which the student resides may be contacted to  
40 answer questions or provide information related to special education and related services.

41 (8)(a) If a student described in subsection (5) of this section enrolls in a public charter school  
42 and has an individualized education program, the school district in which the public charter school  
43 is located must implement the individualized education program and follow the terms of the indi-  
44 vidualized education program until a new individualized education program is developed.

45 (b) If a student described in subsection (5) of this section withdraws from a public charter school

1 and has an individualized education program, the school district in which the student resides must  
2 implement the individualized education program and follow the terms of the individualized education  
3 program until a new individualized education program is developed.

4 (9) When a virtual public charter school enrolls a student or a student no longer is enrolled in  
5 a virtual public charter school, the virtual public charter school shall provide the written notices  
6 described in ORS 338.120 (1)(m) and (n) to the school district where the student is a resident.

7 (10) A public charter school may conduct fund-raising activities but may not require a student  
8 to participate in fund-raising activities as a condition of admission to the public charter school.

9 **SECTION 1a.** If House Bill 3041 becomes law, ORS 338.125, as amended by section 1 of this  
10 2021 Act, is amended to read:

11 338.125. (1) Student enrollment in a public charter school is voluntary.

12 (2)(a) All students who reside in the school district in which the public charter school is located  
13 are eligible for enrollment in the public charter school if space is available.

14 (b) Students who do not reside in the school district in which the public charter school is lo-  
15 cated are eligible for enrollment in the public charter school if space is available and subject to  
16 subsection (4) of this section.

17 (c) A public charter school may not limit student enrollment based on race, religion, sex, sexual  
18 orientation, **gender identity**, ethnicity, national origin, disability, the terms of an individualized  
19 education program, income level, proficiency in the English language or athletic ability. A public  
20 charter school may implement a weighted lottery that favors historically underserved students as  
21 provided by subsection (3)(a) of this section.

22 (3)(a) Except as provided by paragraphs (b) and (c) of this subsection, if the number of applica-  
23 tions from students exceeds the capacity of a program, class, grade level or building, the public  
24 charter school shall select students through an equitable lottery selection process. For the purpose  
25 of ameliorating the impact of discrimination against historically underserved students, an equitable  
26 lottery selection process may include weights that favor historically underserved students. As used  
27 in this paragraph, “historically underserved students” are students who are at risk because of any  
28 combination of their race, sex, sexual orientation, **gender identity**, ethnicity, disability, income  
29 level, proficiency in the English language, socioeconomic status or geographic location.

30 (b)(A) A public charter school may give priority for admission to students who reside within the  
31 attendance boundaries that were in effect at the time a school district closed a nonchartered public  
32 school if:

33 (i) The public charter school began to operate not more than two years after the nonchartered  
34 public school was closed;

35 (ii) The school district that closed the nonchartered public school is the sponsor of the public  
36 charter school;

37 (iii) The public charter school is physically located within the attendance boundaries of the  
38 closed nonchartered public school; and

39 (iv) The school district board, through board action, approved the public charter school giving  
40 priority as described in this paragraph.

41 (B) Nothing in this paragraph requires an amendment to a charter. A school district board may  
42 take an action described in subparagraph (A)(iv) of this paragraph at any time during the term of  
43 a charter.

44 (c) After a public charter school has been in operation for one or more years, the public charter  
45 school may give priority for admission to students who:

1 (A) Were enrolled in the prior year in the public charter school;

2 (B) Were enrolled in a public preschool or prekindergarten program operated by the public  
3 charter school;

4 (C) Have siblings who are presently enrolled in the school and who were enrolled in the school  
5 in the prior year;

6 (D) Are at risk because the student has an economic or academic disadvantage that requires  
7 special services or assistance, including students who:

8 (i) Are from economically disadvantaged families;

9 (ii) Are identified as having special educational needs;

10 (iii) Are limited in proficiency in the English language;

11 (iv) Are at risk of dropping out of high school; or

12 (v) Do not meet minimum standards of academic proficiency; or

13 (E) If the public charter school is a party to a cooperative agreement described in ORS 338.080,  
14 reside in the school district that is the sponsor of the public charter school or in a school district  
15 that is a party to the cooperative agreement.

16 (4)(a) A student who wishes to enroll in a virtual public charter school does not need the ap-  
17 proval of the school district where the student is a resident before the student enrolls in the virtual  
18 public charter school. If a student wishes to enroll in a virtual public charter school, the parent,  
19 legal guardian or person in parental relationship with the student must provide the following notices  
20 to the school district where the student is a resident:

21 (A) Intent to enroll the student in a virtual public charter school; and

22 (B) Enrollment of the student in a virtual public charter school.

23 (b)(A) Notwithstanding paragraph (a) of this subsection and ORS 339.133, if more than three  
24 percent of the students who reside in a school district are enrolled in virtual public charter schools  
25 that are not sponsored by the school district, a student who is a resident of the school district must  
26 receive approval from the school district before enrolling in a virtual public charter school. A school  
27 district is not required to give approval if more than three percent of the students who reside in the  
28 school district are enrolled in virtual public charter schools that are not sponsored by the school  
29 district.

30 (B) For the purpose of determining whether more than three percent of the students who reside  
31 in the school district are enrolled in virtual public charter schools that are not sponsored by the  
32 school district, the school district board shall include any students who:

33 (i) Reside in the school district, regardless of whether the students are considered residents of  
34 different school districts as provided by ORS 339.133 (5); and

35 (ii) Are enrolled in virtual public charter schools that are not sponsored by the school district.

36 (C) Students who reside in the school district, regardless of whether the students are considered  
37 residents of different school districts as provided by ORS 339.133 (5), must receive approval from the  
38 school district before enrolling in a virtual public charter school if the limit described in subpara-  
39 graph (A) of this paragraph has been met.

40 (c) If the school district does not give approval under paragraph (b) of this subsection, the  
41 school district must provide information to the parent, legal guardian or person in parental re-  
42 lationship with the student about the right to appeal the decision to the State Board of Education  
43 and other online options available to the student. If an appeal is made to the State Board of Edu-  
44 cation, the board must issue a decision within 30 days of the submission of the appeal.

45 (5) Within 10 days of a student's enrollment in a public charter school, the public charter school

1 shall provide written notice of the student's enrollment to the school district in which the public  
2 charter school is located if the student does not reside in the school district where the public  
3 charter school is located.

4 (6) Within 10 days of receiving the notice described in subsection (5) of this section, the school  
5 district in which the public charter school is located shall provide to the student's parent, legal  
6 guardian or person in parental relationship written information about:

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

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

12 (7) When a student described in subsection (5) of this section withdraws from a public charter  
13 school for a reason other than graduation from high school, the school district in which the public  
14 charter school is located shall:

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

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

19 (A) The responsibility of the school district in which the student resides to identify, locate and  
20 evaluate students who reside in the school district to determine which students may be in need of  
21 special education and related services as provided by ORS 338.165; and

22 (B) The methods by which the school district in which the student resides may be contacted to  
23 answer questions or provide information related to special education and related services.

24 (8)(a) If a student described in subsection (5) of this section enrolls in a public charter school  
25 and has an individualized education program, the school district in which the public charter school  
26 is located must implement the individualized education program and follow the terms of the indi-  
27 vidualized education program until a new individualized education program is developed.

28 (b) If a student described in subsection (5) of this section withdraws from a public charter school  
29 and has an individualized education program, the school district in which the student resides must  
30 implement the individualized education program and follow the terms of the individualized education  
31 program until a new individualized education program is developed.

32 (9) When a virtual public charter school enrolls a student or a student no longer is enrolled in  
33 a virtual public charter school, the virtual public charter school shall provide the written notices  
34 described in ORS 338.120 (1)(m) and (n) to the school district where the student is a resident.

35 (10) A public charter school may conduct fund-raising activities but may not require a student  
36 to participate in fund-raising activities as a condition of admission to the public charter school.

37 **SECTION 2. This 2021 Act being necessary for the immediate preservation of the public**  
38 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**  
39 **on its passage.**

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