

**Enrolled**  
**House Bill 2426**

Sponsored by Representative GELSER, Senator HASS; Representatives FREDERICK, HARKER, HUFFMAN, SPRENGER, Senator ROBLAN (Pre-session filed.)

CHAPTER .....

AN ACT

Relating to the use of technology in schools; creating new provisions; and amending ORS 337.120, 338.025, 338.115 and 343.223.

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

**SECTION 1. (1) As used in this section, “independent communication” means communication that does not require assistance or interpretation by an individual who is not part of the communication but that may require the use or assistance of an electronic device.**

**(2) Each district school board shall adopt policies for the use of personal electronic devices in the schools of the school district as provided by this section.**

**(3) A district school board shall adopt a policy for the use of personal electronic devices that support academic activities and independent communications. The policy must provide that:**

**(a) Students may be allowed to use personal electronic devices that support academic activities and independent communications.**

**(b) Unless otherwise specifically prohibited by the policy, students may not be denied the opportunity to use a personal electronic device that supports academic activities and independent communications.**

**(4) If a school district implements a curriculum that uses technology, the district school board shall adopt a policy that provides that:**

**(a) Students may be allowed, but are not required, to use their own personal electronic devices for the curriculum.**

**(b) Students who use their own personal electronic devices for the curriculum must be granted access to any applications or electronic materials that are available to students who do not use their own personal electronic devices for the curriculum.**

**(c) Students who use their own personal electronic devices for the curriculum must be granted access to applications and electronic materials free of charge if the applications and electronic materials are provided free of charge to students who do not use their own personal electronic devices for the curriculum.**

**(5) A policy adopted under subsection (3) or (4) of this section must include a process and timeline for responding to a student’s request related to the use of a personal electronic device, including an appeals process.**

**(6) School districts must ensure that the policies adopted under subsection (3) or (4) of this section are made available to:**

(a) School district personnel whose duties may require them to assist students with personal electronic devices; and

(b) Students and parents or guardians of students.

(7) Nothing in the requirements of this section prevents a district school board from prohibiting:

(a) Telephonic or electronic communications during regular school hours or during school events if the communications are not related to academic activities or independent communications;

(b) Communications using access to social media or to nonacademic sites during regular school hours or during school events;

(c) The use of personal electronic devices for any purpose that does not support academic activities or independent communications; or

(d) The use of personal electronic devices for entertainment purposes.

(8) Nothing in this section authorizes a district school board, or any employees of or volunteers for the school district or a school of the school district, to request, require or compel access to a student's electronic mail or personal online accounts.

**SECTION 2.** Policies under section 1 of this 2013 Act must be adopted and implemented no later than the 2014-2015 school year.

**SECTION 3.** ORS 343.223 is amended to read:

343.223. (1)(a) Each school district shall make assistive technology devices or assistive technology services, or both, available to a child with a disability if required as part of a child's special education, related services or supplementary aids and services.

[2] (b) The State Board of Education shall establish by rule the definitions of assistive technology devices and assistive technology services.

(2) School districts shall ensure that school administrators and school personnel whose duties may require them to assist a student with a print disability, as defined in ORS 337.511, receive annual professional development related to using online resources that enable students with print disabilities to receive instructional materials free of charge.

**SECTION 4.** A school district shall ensure that school administrators and school personnel who are required to receive training as provided by ORS 343.223, as amended by section 3 of this 2013 Act, first receive training by October 1, 2014.

**SECTION 5.** ORS 337.120, as amended by section 7, chapter 91, Oregon Laws 2012, is amended to read:

337.120. (1)(a) A district school board, with the assistance of teachers and administrators of the district, shall adopt a list of textbooks and other instructional materials for each grade and subject for which instruction is provided by the school district.

(b) When adopting a list of textbooks and other instructional materials, the district school board shall consider whether the textbooks and other instructional materials are available through online resources that enable students with print disabilities to receive the textbooks and instructional materials free of charge.

(c) The district school board shall adopt the list in compliance with ORS 337.141 and shall involve parents and citizens in the process.

(2) The district school board shall cause the [*books*] **textbooks** or other instructional materials, according to titles, that are included on the list adopted under subsection (1) of this section to be used in its schools at the beginning of the next school year following the state adoption under ORS 337.141, except when, pursuant to rules of the State Board of Education, the district school board is authorized by the Superintendent of Public Instruction to postpone use for a reasonable period of time.

(3) District school boards shall establish a process and timeline for regularly determining whether textbooks and instructional materials on the list adopted under subsection (1) of this section are available through online resources that enable students with print disabilities to receive textbooks and instructional materials free of charge.

**SECTION 6.** ORS 338.115, as amended by section 9, chapter 92, Oregon Laws 2012, 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 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 abuse and sexual conduct and training on prevention and identification of abuse and sexual conduct);
- (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) ORS 339.119 (consideration for educational services); *[and]*
- (v) Section 1 of this 2013 Act (use of personal electronic devices); and**
- [(v)] (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) A public charter school shall maintain an active enrollment of at least 25 students.

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

(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, public university listed in ORS 352.002, 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 7.** 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, section 3, chapter 53, Oregon Laws 2010, section 3, chapter 94, Oregon Laws 2011, section 118, chapter 637, Oregon Laws 2011, section 5, chapter 682, Oregon Laws 2011, and section 10, chapter 92, Oregon Laws 2012, 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 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 abuse and sexual conduct and training on prevention and identification of abuse and sexual conduct);
- (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) ORS 339.119 (consideration for educational services); *[and]*
- (w) Section 1 of this 2013 Act (use of personal electronic devices); and**
- [(w)]* **(x) 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) A public charter school shall maintain an active enrollment of at least 25 students.

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

(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, public university listed in ORS 352.002, 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 8.** ORS 338.025 is amended to read:

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

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

chapter or any provision under ORS 338.115 (1)(a) to [(u)] (v), 338.120, 338.125 (4), 338.135 (2)(b) or 339.122.

**SECTION 9.** 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, section 4, chapter 72, Oregon Laws 2010, section 5, chapter 94, Oregon Laws 2011, section 4, chapter 649, Oregon Laws 2011, and section 27, chapter 718, Oregon Laws 2011, 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 [(v)] (w), 338.120, 338.125 (4), 338.135 (2)(b) or 339.122.

**Passed by House April 16, 2013**

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate May 2, 2013**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M.,....., 2013

**Approved:**

.....M.,....., 2013

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John Kitzhaber, Governor

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

.....M.,....., 2013

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Kate Brown, Secretary of State