

# D R A F T

## SUMMARY

Modifies timelines and requirements for when school district makes determination whether to give approval for student to enroll in virtual public charter school not sponsored by school district.

Directs Department of Education to collect and compile virtual public charter school enrollment data for purpose of school districts making determinations whether to give approval.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to virtual public charter school enrollment; creating new pro-  
3 visions; amending ORS 338.025 and 338.125; 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 is voluntary.

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

10 (b) Students who do not reside in the school district in which the public  
11 charter school is located are eligible for enrollment in the public charter  
12 school if space is available and subject to subsection [(4)] (5) of this section.

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

**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 (3)(a) Except as provided by paragraphs (b) and (c) of this subsection, if  
2 the number of applications from students exceeds the capacity of a program,  
3 class, grade level or building, the public charter school shall select students  
4 through an equitable lottery selection process. For the purpose of amelio-  
5 rating the impact of discrimination against historically underserved students,  
6 an equitable lottery selection process may include weights that favor his-  
7 torically underserved students. As used in this paragraph, “historically  
8 underserved students” are students who are at risk because of any combina-  
9 tion of their race, sex, sexual orientation, gender identity, ethnicity, disa-  
10 bility, income level, proficiency in the English language, socioeconomic  
11 status or geographic location.

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

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

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

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

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

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

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

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

30 (B) Were enrolled in a public preschool or prekindergarten program op-  
31 erated by the public charter school;

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

3 (D) Are at risk because the student has an economic or academic disad-  
4 vantage that requires special services or assistance, including students who:

5 (i) Are from economically disadvantaged families;

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

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

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

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

10 (E) If the public charter school is a party to a cooperative agreement  
11 described in ORS 338.080, reside in the school district that is the sponsor of  
12 the public charter school or in a school district that is a party to the coop-  
13 erative agreement.

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

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

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

24 **(b) A school district that receives notice of enrollment under para-**  
25 **graph (a)(B) of this subsection must submit to the Department of Ed-**  
26 **ucation information required by the department for purposes of**  
27 **subsection (5)(f) of this section.**

28 [(b)(A)] **(5)(a)** Notwithstanding [*paragraph (a) of this*] subsection **(4) of**  
29 **this section** and ORS 339.133, if more than three percent of the students  
30 who reside in a school district are enrolled in virtual public charter schools  
31 that are not sponsored by the school district, a student who is a resident of

1 the school district must receive approval from the school district before en-  
2 rolling in a virtual public charter school **that is not sponsored by the**  
3 **school district where the student is a resident.** A school district is not  
4 required to give approval if more than three percent of the students who  
5 reside in the school district are enrolled in virtual public charter schools  
6 that are not sponsored by the school district. **A school district must pro-**  
7 **vide notice of the decision to give approval or to not give approval**  
8 **within five business days of receiving notice of intent for the student**  
9 **to enroll in a virtual public charter school.**

10 [(B)] (b) For the purpose of determining whether more than three percent  
11 of the students who reside in the school district are enrolled in virtual public  
12 charter schools that are not sponsored by the school district, the school  
13 district board shall:

14 (A) Include any students who:

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

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

20 (B) **Make the determination based on the most recent enrollment**  
21 **data collected for the school district and the information available to**  
22 **the school district through the central database described in paragraph**  
23 **(f) of this subsection.**

24 [(C)] (c) Students who reside in the school district, regardless of whether  
25 the students are considered residents of different school districts as provided  
26 by ORS 339.133 (5), must receive approval from the school district before  
27 enrolling in a virtual public charter school **that is not sponsored by the**  
28 **school district** if the limit described in [subparagraph (A) of this  
29 paragraph] **paragraph (a) of this subsection** has been met.

30 [(c)] (d) If the school district does not give approval under paragraph  
31 [(b)] (a) of this subsection, the school district must provide [information] to

1 the parent, legal guardian or person in parental relationship with the student  
2 **information** about:

3 **(A) The data that was used to make the decision;**

4 **(B) The right to appeal the decision to the State Board of Education; and**

5 **(C) Other online options available to the student.**

6 **(e) If an appeal is made to the State Board of Education as described**  
7 **in paragraph (d) of this subsection**, the board must issue a decision within  
8 [30] **14** days of the submission of the appeal.

9 **(f) The department shall collect and compile enrollment data re-**  
10 **lated to virtual public charter schools in a central database and make**  
11 **that database available for use by school districts for the purpose of**  
12 **making determinations under this subsection.**

13 [(5)] **(6)** Within 10 days of a student's enrollment in a public charter  
14 school, the public charter school shall provide written notice of the student's  
15 enrollment to the school district in which the public charter school is lo-  
16 cated if the student does not reside in the school district where the public  
17 charter school is located.

18 [(6)] **(7)** Within 10 days of receiving the notice described in subsection  
19 [(5)] **(6)** of this section, the school district in which the public charter school  
20 is located shall provide to the student's parent, legal guardian or person in  
21 parental relationship written information about:

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

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

29 [(7)] **(8)** When a student described in subsection [(5)] **(6)** of this section  
30 withdraws from a public charter school for a reason other than graduation  
31 from high school, the school district in which the public charter school is

1 located shall:

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

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

6 (A) The responsibility of the school district in which the student resides  
7 to identify, locate and evaluate students who reside in the school district to  
8 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 in which the student resides  
11 may be contacted to answer questions or provide information related to  
12 special education and related services.

13 [(8)(a)] **(9)(a)** If a student described in subsection [(5)] **(6)** of this section  
14 enrolls in a public charter school and has an individualized education pro-  
15 gram, the school district in which the public charter school is located must  
16 implement the individualized education program and follow the terms of the  
17 individualized education program until a new individualized education pro-  
18 gram is developed.

19 (b) If a student described in subsection [(5)] **(6)** of this section withdraws  
20 from a public charter school and has an individualized education program,  
21 the school district in which the student resides must implement the individ-  
22 ualized education program and follow the terms of the individualized educa-  
23 tion program until a new individualized education program is developed.

24 [(9)] **(10)** When a virtual public charter school enrolls a student or a  
25 student no longer is enrolled in a virtual public charter school, the virtual  
26 public charter school shall provide the written notices described in ORS  
27 338.120 (1)(m) and (n) to the school district where the student is a resident.

28 [(10)] **(11)** A public charter school may conduct fund-raising activities but  
29 may not require a student to participate in fund-raising activities as a con-  
30 dition of admission to the public charter school.

31 **SECTION 2.** ORS 338.025 is amended to read:

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

4 (2) Upon application by a public charter school, the State Board of Edu-  
5 cation may grant a waiver of any provision of this chapter if the waiver  
6 promotes the development of programs by providers, enhances the equitable  
7 access by underserved families to the public education of their choice, ex-  
8 tends the equitable access to public support by all students or permits high  
9 quality programs of unusual cost. The State Board of Education may not  
10 waive any appeal provision in this chapter or any provision under ORS  
11 338.115 (1)(a) to (aa), 338.120, 338.125 [(4)] (5), 338.135 (2)(b) or 339.122.

12 **SECTION 3. (1) The amendments to ORS 338.025 and 338.125 by**  
13 **sections 1 and 2 of this 2023 Act become operative on January 1, 2024.**

14 **(2) Notwithstanding the operative date set forth in subsection (1)**  
15 **of this section, at any time prior to the operative date set forth in**  
16 **subsection (1) of this section, the Department of Education may re-**  
17 **quest that school districts submit virtual public charter school en-**  
18 **rollment data to the department for the purpose of the central**  
19 **database described in ORS 338.125 (5)(f).**

20 **SECTION 4. This 2023 Act being necessary for the immediate pres-**  
21 **ervation of the public peace, health and safety, an emergency is de-**  
22 **clared to exist, and this 2023 Act takes effect on its passage.**

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