

Public Charter Schools

I. Definitions

- A. Applicant means any person or group that develops and submits a written proposal for a public charter school to the district.
- B. Public charter school means an elementary or secondary school offering a comprehensive instructional program operating under a written agreement entered into between the district and an applicant.
- C. Remote and necessary school district means a school district that offers kindergarten through grade 12 and has: (a) an average daily membership (ADM), as defined in ORS 327.006, in the prior fiscal year of less than 110; and (b) a school that is located, by the nearest traveled road, more than 20 miles from the nearest school or from a city with a population of more than 5,000.
- D. Sponsor means the district Board.

II. Proposal Process

- A. The public charter school applicant shall submit the proposal to the district no later than January 31 for a September starting date.
- B. To be considered complete, the proposal for a public charter school shall include the following:
 - 1. The identification of the applicant;
 - 2. The name of the proposed public charter school;
 - 3. A description of the philosophy and mission of the public charter school;
 - 4. A description of any distinctive learning or teaching techniques to be used;
 - 5. A description of the curriculum of the public charter school;
 - 6. A description of the expected results of the curriculum and the verified methods of measuring and reporting results that will allow comparisons with district schools;
 - 7. The governance structure;
 - 8. The projected enrollment including the ages or grades to be served;
 - 9. The target population of students the public charter school is designed to serve;
 - 10. The legal address, facilities and physical location of the public charter school;
 - 11. A description of admission policies and application procedures;
 - 12. The statutes and rules that shall apply to the public charter school;
 - 13. The proposed budget and financial plan including evidence that the proposed budget and financial plan are financially sound;
 - 14. The standards for behavior and the procedures for the discipline, suspension or expulsion of students;

15. The proposed school calendar, including the length of the school day and length of the school year;
16. A description of the proposed school staff and required qualifications of teachers (At least one-half of the full-time equivalent teaching and administrative staff of the public charter school shall be licensed.);
17. The date upon which the public charter school would begin operating;
18. The arrangements for any necessary special education and related services for students with disabilities who qualify under IDEA and special education or regular education and related services for students who qualify under Section 504 of the Rehabilitation Act of 1973 who may attend the public charter school;
19. Information on the manner in which community groups may be involved in the planning and development process of the public charter school;
20. The term of the charter;
21. The plan for performance bonding or insuring the public charter school, including buildings and liabilities;
22. A proposed plan for the placement of public charter school teachers, other employees and students upon termination or nonrenewal of a charter;
23. The manner in which the public charter school program review and fiscal audit will be conducted;
24. In the case of a district school's conversion to charter status, the following additional criteria must be addressed:
 - a. The alternate arrangements for students who choose not to attend the public charter school and for teachers and other school employees who choose not to participate in the public charter school;
 - b. The relationship that will exist between the public charter school and its employees including terms and conditions of employment.
25. The district will not complete the review required under ORS 338.055 of an application that does not contain the required components listed in ORS 338.045 (2)(a-x). A good faith determination of incompleteness is not a denial for purposes of requesting state board review under ORS 338.075;
26. In addition to the minimum requirements enumerated in ORS 338.045 (2)(a) - (x), the district, under ORS 338.045 (3), may require the applicant to submit any of the following information as necessary to add detail or clarity to the minimum requirements or that the Board considers relevant to the formation or operation of the public charter school:
 - a. Curriculum, Instruction and Assessment
 - b. State and Federal Mandates/Special Education
 - c. Teacher Certification
 - d. Professional Development
 - e. Budget
 - f. Policy
 - g. Other Information

The public charter school applicant will organize and label all information required in section 25 to correspond to the requested numbers.

III. Proposal Review Process

- A. Within 15 business days of receipt of a proposal, the district will notify the applicant as to the completeness of the proposal. Proposals that minimally address or leave out any of the required components are not complete and will be returned to the applicant.
- B. Within 60 days of the notification to the applicant of the district's receipt of a complete proposal that meets the requirements of law and the district, the Board shall hold a public hearing on the provisions of the public charter school proposal.
- C. The Board must evaluate a proposal in good faith using the following criteria:
 - 1. The demonstrated sustainable support for the proposal by teachers, parents, students and other community members, including comments received at the public hearing;
 - 2. The demonstrated financial stability of the proposed public charter school;
 - 3. The capability of the applicant in terms of support and planning to provide comprehensive instructional programs;
 - 4. The capability of the applicant in terms of support and planning to provide comprehensive instructional programs to students identified by the applicant as academically low achieving;
 - 5. The extent to which the proposal addresses the criteria required in the proposal process;
 - 6. Whether the value of the public charter school is outweighed by any directly identifiable, significant and adverse impact on the quality of the public education of students residing in the district.
 - 7. Whether there are arrangements for any necessary special education and related services;
 - 8. Whether there are alternative arrangements for students, teachers and other school employees who choose not to attend or be employed by the public charter school if the public charter school is converting an existing district school.
- E. The Board must either approve or deny the proposal within 30 days of the public hearing.
- F. Written notice of the Board's action shall be sent to the applicant. If denied, the notice must include the reasons for the denial with suggested remedial measures. The applicant may then resubmit the proposal. The Board must either approve or deny the resubmitted proposal within 20 days. The Board may, with good cause, request an extension in the approval process timelines from the State Board of Education.

IV. Terms of the Charter Agreement

- A. Upon Board approval of the proposal, the Board will become the sponsor of the public charter school. The district and the applicant must develop a written charter agreement, subject to Board approval, which shall act as the legal authorization for the establishment of the public charter school.
- B. The charter agreement shall be legally binding and must be in effect for a period of not more than five years but may be renewed by the district.
- C. The district and the public charter school may amend a charter agreement through joint agreement.
- D. It is the intent of the Board that the charter agreement be detailed and specific to protect the mutual interests of the public charter school and the district. The agreement shall incorporate

the elements of the approved proposal and will address additional matters, statutes and rules not fully covered by law or the proposal that shall apply to the public charter school including, but not limited to, the following:

1. Employment status of public charter school employees:

a. Public charter school law requires the following:

- (1) Employee assignment to a public charter school shall be voluntary;
- (2) A public charter school or the sponsor of the public charter school may be considered the employer of any employees of the public charter school;
- (3) If the Board is not the sponsor of the public charter school, it shall not be the employer and shall not collectively bargain with the employees;
- (4) A public charter school employee may be a member of a labor organization or organize with other employees to bargain collectively. The bargaining unit may be separate from other bargaining units of the district;
- (5) The public charter school governing body shall control the selection of employees at the public charter school;
- (6) The Board shall grant a leave of absence to any employee who chooses to work in the public charter school. The length and terms of the leave of absence shall be set by collective bargaining agreement or by Board policy; however, the length of leave of absence may not be less than two years unless:
 - (a) The charter of the public school is terminated or the public charter school is dissolved or closed during the leave of absence; or
 - (b) The employee and the Board have mutually agreed to a different length of time.
- (7) An employee of a public charter school operating within the district who is granted a leave of absence and returns to employment with the district shall retain seniority and benefits as an employee, pursuant to the terms of the leave of absence.

b. The terms and conditions of employment addressed in the agreement may include, but not be limited to:

- (1) A proposed plan for the placement of teachers and other school employees upon termination or nonrenewal of the charter;
- (2) Arrangements for employees who choose not to be employed or participate in the public charter school, if a district school has been converted to a public charter school;

2. Student enrollment, application procedures and whether the public charter school will admit nonresident students and on what basis:

a. Public charter school law requires the following:

- (1) Student enrollment shall be voluntary. If the number of applicants exceeds the capacity, students shall be selected through a lottery process. If the

public charter school has been in operation one or more years, priority enrollment will be given to those students who:

- (a) Were enrolled in the public charter school the prior year;
 - (b) Have siblings who are presently enrolled in the public charter school and who were enrolled the prior year.
 - (2) If a public charter school offers any online courses as part of the curriculum of the school, then 50 percent or more of the students who attend the public charter school must reside in the school district in which the public charter school is located.
 - (3) A public charter school may not limit student admission based on ethnicity, national origin, race, religion, disability, sex, income level, proficiency in the English language or athletic ability but may limit admission within a given age group or grade level.
3. Transportation of students:
 - a. Public charter school law requires the following:
 - (1) The public charter school shall be responsible for providing transportation for its students and may negotiate with the district for the provision of transportation services;
 - (2) The district shall provide transportation for public charter school students pursuant to ORS 327.043. Resident public charter school students will be transported under the same conditions as students attending private or parochial schools located along or near established district bus routes. The district shall not be required to add or extend existing bus routes;
 - (3) Public charter school students who reside outside the District may use existing bus routes and transportation services of the District in which the public charter school is located;
 - (4) Any transportation costs incurred by the District shall be considered approved transportation costs.
4. The plan for performance bonding or insuring the public charter school sufficient to protect the district. Documentation shall be submitted prior to agreement approval.
 - (1) Commercial General Liability Insurance in an amount of not less than \$1,000,000 combined single limit per occurrence/\$3,000,000 annual aggregate covering the public charter school, the governing board, employees and volunteers against liability for damages because of personal injury, bodily injury, death or damage to property including the loss of use thereof. Coverage to include, but not limited to, contractual liability, advertisers' liability, employee benefits liability, professional liability and teachers' liability;
 - (2) Liability Insurance for Directors and Officers in an amount not less than \$1,000,000 each loss/\$3,000,000 annual aggregate covering the public charter school, the governing board, employees and volunteers against liability arising out of wrongful acts and employment practices. Continuous "claims made" coverage will be acceptable, provided the retroactive date is on the effective date of the charter;

- (3) Automobile Liability Insurance in an amount not less than \$1,000,000 combined single limit covering the public charter school, the governing board, employees and volunteers against liability for damages because of bodily injury, death or damage to property, including the loss of use thereof arising out of the ownership, operation, maintenance or use of any automobile. The policy will include underinsured and uninsured motorist vehicle coverage at the limits equal to bodily injury limits;
- (4) Workers' Compensation Insurance shall also be maintained pursuant to Oregon laws (ORS Chapter 656). Employers' liability insurance with limits of \$100,000 each accident, \$100,000 disease each employee and \$500,000 each policy limit;
- (5) Honesty Bond to cover all employees and volunteers. Limits to be determined by the governing board, but no less than \$25,000. Coverage shall include faithful performance and loss of moneys and securities;
- (6) Property Insurance shall be required on all owned or leased buildings or equipment. The insurance shall be written to cover the full replacement cost of the building and/or equipment on an "all risk of direct physical loss basis," including earthquake and flood perils.

b. Additional requirements:

- (1) The district shall be an additional insured on commercial general and automobile liability insurance. The policies shall provide for a 90-day written notice of cancellation or material change. A certificate evidencing all of the above insurance shall be furnished to the district;
- (2) The public charter school shall also hold harmless and defend the district from any and all liability, injury, damages, fees or claims arising out of the operations of the public charter school operations or activities;
- (3) The district shall be loss payee on the property insurance if the public charter school leases any real or personal district property;
- (4) The coverage provided and the insurance carriers must be acceptable to the district.

V. Public Charter School Operation

- A. The public charter school shall operate at all times in accordance with the public charter school law, the terms of the approved proposal and the charter agreement.
- B. Statutes and rules that apply to the district shall not apply to the public charter school except the following, as required by law, shall apply:
 1. Federal law, including applicable provisions of the No Child Left Behind Act of 2001;
 2. Public records law (ORS 192.410 to 192.505);
 3. Public meetings law (ORS 192.610 to 192.690);
 4. Municipal audit law (ORS 297.405 to 297.555 and 297.990);
 5. Criminal records check (ORS 181.539, 326.603, 326.607 and 342.232);
 6. Textbooks (ORS 337.150);
 7. Tuition and fees (ORS 339.141, 339.147 and 339.155);
 8. Discrimination (ORS 659.850 and 659.855);
 9. Tort claims (ORS 30.260 to 30.300);
 10. Health and safety statutes and rules;

11. Any statute or rule listed in the charter;
 12. The statewide assessment system developed by the Oregon Department of Education (ODE) for Mathematics, Science and English under ORS 329.485 (1);
 13. The academic content standards and instruction (ORS 329.045);
 14. Any statute or rule that establishes requirements for instructional time;
 15. Prohibition of infliction of corporal punishment (ORS 339.250 (12));
 16. Reporting of suspected child abuse (ORS 419B.010);
 17. Diploma, modified diploma and alternative certificate standards (ORS 329.451);
 18. ORS Chapter 338.
- C. The public charter school may employ as a teacher or administrator a person who is not licensed by the TSPC; however, at least one-half of the total full-time equivalent teaching and administrative staff at the public charter school shall be licensed by the commission, pursuant to ORS 342.135, 342.136, 342.138 or 342.140.
- D. The public charter school shall participate in the Public Employees Retirement System.
- E. The public charter school shall 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.
- F. The public charter school shall maintain an active enrollment of at least 25 students.
- G. The public charter school may sue or be sued as a separate legal entity.
- H. The public charter school may enter into contracts and may lease facilities and services from the district, education service district, state institution of higher education, other governmental unit or any person or legal entity.
- I. The public charter school may not levy taxes or issue bonds under which the public incurs liability.
- J. The 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.
- K. The district shall offer a high school diploma, modified diploma, or alternative certificate to any public charter school student located in the district who meets the district's and state's standards for a high school diploma, modified diploma, or alternative certificate.
- L. A high school diploma, modified diploma, or alternative certificate issued by a public charter school shall grant to the holder the same rights and privileges as a high school diploma, modified diploma, or alternative certificate issued by a nonchartered public school.
- M. Upon application by the public charter school, the State Board of Education may grant a waiver of certain public charter school law provisions 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. This waiver request must specify the reasons the public charter school is seeking the waiver and further requires the public charter school to notify the sponsor if a waiver is being considered.

VI. Charter Agreement Review

- A. The public charter school shall report at least annually on the performance of the school and its students to the State Board of Education and the district.
- B. The Board or designee shall visit the public charter school at least annually to assure compliance with the terms and provisions of the charter.
- C. The public charter school shall be audited annually in accordance with the Municipal Audit Law and shall forward the audit to the Board, the State Board of Education and ODE.

VII. Charter School Renewal

- A. The first renewal of a charter shall be for the same time period as the initial charter. Subsequent renewals of a charter shall be for a minimum of five years but may not exceed 10 years.
- B. The Board and the public charter school shall follow the following timeline unless a different timeline has been agreed upon by the Board and the public charter school:
 - 1. The public charter school shall submit a written renewal request to the Board for consideration at least 180 days prior to, but no earlier than 210 days before the expiration of the charter.
 - 2. Within 45 days after receiving a written renewal request from a public charter school, the Board shall hold a public hearing regarding the renewal request.
 - 3. Within 10 days after the public hearing, the Board shall notify the public charter school of the Board's intent regarding the charter renewal.
 - 4. Within 20 days after the public hearing, the Board shall approve the charter renewal or state in writing the reasons for denying charter renewal.
 - 5. If the Board approves the charter renewal, the Board and the public charter school shall negotiate a new charter within 90 days unless the Board and the public charter school agree to an extension of the time period.
 - 6. If the Board does not renew the charter, the public charter school may address the reasons stated for denial of the renewal and any remedial measures suggested by the Board and submit a revised request for renewal to the Board.
 - 7. If the Board does not renew the charter based on the revised request for renewal or the parties do not negotiate a charter contract within the timeline established in this policy, the public charter school may appeal the Board's decision to the State Board of Education for a review of whether the Board used the process required by Oregon law in denying the charter renewal.
 - a. If the State Board of Education finds that the Board used the appropriate process in denying the request for renewal, it shall affirm the decision of the Board. A public charter may seek judicial review of this order.
 - b. If the State Board of Education finds that the Board did not use the appropriate process in denying the request for renewal, it shall order the Board to reconsider the request for renewal. If after reconsideration the Board does not renew the charter, the public charter school may seek judicial review of the Board's decision.
 - 8. The Board shall base the charter renewal decision on a good faith evaluation of whether the public charter school:

- a. Is in compliance with all applicable state and federal laws;
 - b. Is in compliance with the charter of the public charter school;
 - c. Is meeting or working toward meeting the student performance goals and agreements specified in the charter or any other written agreements between the Board and the public charter school;
 - d. Is fiscally stable; and
 - e. Is in compliance with any renewal criteria specified in the charter of the public charter school.
9. The Board shall base the renewal evaluation described above primarily on a review of the public charter school's annual performance reports, annual audit of accounts and annual site visit and review and any other information mutually agreed upon by the public charter school and the Board.
 10. For purposes of this section, the phrase “good faith evaluation” means an evaluation of all criteria required by this section resulting in a conclusion that a reasonable person would come to who is informed of the law and the facts before that person.

VIII. Charter School Termination

- A. The public charter school may be terminated by the Board for any of the following reasons:
 1. Failure to meet the terms of an approved charter agreement or any requirement of ORS Chapter 338 unless waived by the State Board of Education;
 2. Failure to meet the requirements for student performance as outlined in the charter agreement;
 3. Failure to correct a violation of federal or state law;
 4. Failure to maintain insurance;
 5. Failure to maintain financial stability;
 6. Failure to maintain the health and safety of the students.
- B. If a charter school is terminated by the Board for any reason listed in sections A. 1 through A. 5, the following shall occur:
 7. The district shall give the public charter school a 60-day written notification of its decision;
 8. The district shall state the grounds for termination and deliver notification to the business office of the public charter school;
 9. The public charter school may request a hearing by the district. The request must be made in writing and delivered to the business address of the sponsor;
 10. Within 30 days of receiving the request for a hearing, the sponsor must provide the public charter school with the opportunity for a hearing on the proposed termination;
 11. The public charter school may appeal the decision to terminate to the State Board of Education;
 12. If the public charter school appeals the decision to terminate to the State Board of Education, the public charter school will remain open until the State Board issues its final order;
 13. If the State Board’s final order upholds the decision to terminate and at least 60 days have passed since the notice of intent to terminate was received by the public charter school, the district’s sponsorship of the public charter school will terminate;

14. The final order of the State Board may be appealed under the provision of ORS 183.484;
 15. Throughout the ORS 183.484 judicial appeals process the public charter school shall remain closed;
 16. If terminated or dissolved, assets of the public charter school purchased by the public charter school with public funds, shall be given to the State Board of Education.
- C. If the public charter school is terminated by the Board for any reason related to student health or safety as provided in section A. 6, the following shall occur:
17. If the district reasonably believes that a public charter school is endangering the health or safety of the students enrolled in the public charter school, the district may act to immediately terminate the approved charter and close the public charter school without providing the notice required in section B. 1;
 18. A public charter school closed due to health or safety concerns may request a hearing by the sponsor. Such a request must be made in writing and delivered to the business address of the district;
 19. Within 10 days of receiving the request for a hearing, the district must provide the public charter school with the opportunity for a hearing on the termination;
 20. If the district acts to terminate the charter following the hearing, the public charter school may appeal the decision to the State Board of Education;
 21. The State Board will hold a hearing on the appeal within 10 days of receiving the request;
 22. The public charter school will remain closed during the appeal process unless the State Board orders the district not to terminate and to re-open the public charter school; and
 23. The final order of the State Board may be appealed under the provisions of ORS 183.484.
- D. If the public charter school is terminated, closed or dissolved by the governing body of the public charter school, it shall be done only at the end of a semester and with 180 days' notice to the district, unless the health and safety of the students are in jeopardy. Such notice must be made in writing and be delivered to the business address of the sponsor.

Assets of a terminated, closed or dissolved public charter school that were obtained with grant funds will be dispersed according to the terms of the grant. If the grant is absent any reference to ownership or distribution of assets of a terminated, closed or dissolved public charter school, all assets will be given to the State Board of Education for disposal.

IX. District Immunity

The district, members of the Board and employees of the district are immune from civil liability with respect to the public charter school's activities.