

**Neah-Kah-Nie
School District 56**

Code: **LBE-AR**
Adopted: 11/12/01
Readopted: 5/12/08
Orig. Code(s): LBE-AR

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. The proposal for a public charter school shall include, but not be limited to, 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 and how it differs from the district's current program and philosophy;
 - 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 public charter school board membership, selection, duties and responsibilities;
 - 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 and applicable occupancy permits and health and safety approvals;
 - 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 including a breakdown of professional staff who hold a valid teaching license issued by Teacher Standards and Practices Commission (TSPC) and those who do not hold a license but are registered with TSPC (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 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 alternative 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. Any other information the Board considers relevant, including procedures and plans for the following:
 - a. Use of unique district facilities including, but not limited to, gymnasiums, auditoriums, athletic fields, libraries, cafeterias, computer labs and music facilities;
 - b. Child nutrition program(s);
 - c. Student participation in extracurricular activities pursuant to Oregon School Activities Association and Board policy, regulations and rules;
 - d. Graduation exercises including public charter school student participation in district exercises;
 - e. Admission of students expelled from another district for reasons other than a weapons policy violation;
 - f. Alternative placement for students not making satisfactory progress;
 - g. Counseling services;

- h. Solicitation/Advertising/Fund raising by nonschool groups;
- I. Field trips;
- j. Student promotion and retention;
- k. Student publications;
- l. Student/Parent/Public complaints;
- m. Student/Staff vehicle parking and use;
- n. Visitors;
- o. Contingency plans for the hiring of substitute professional and classified staff;
- p. Discipline, suspension or dismissal of staff.

III. Proposal Review Process

- A. The superintendent may appoint an advisory committee to review public charter school proposals and submit a recommendation to the Board. The committee will consist of district representatives, community members and others as deemed appropriate.
- B. 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.
- C. Within 60 days of receipt of a 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.
- D. The Board shall 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;
A “directly identifiable, significant and adverse impact” is defined as an adverse loss or reduction in staff, student, program or funds that may reduce the quality of existing district educational programs. This may include, but not be limited to, the following current data as compared to similar data from preceding years:
 - a. Student enrollment;
 - b. Student teacher ratio;
 - c. Staffing with appropriately licensed or endorsed personnel;
 - d. Student learning and performance;

- e. Specialty programs or activities such as music, physical education, foreign language, talented and gifted and English as a second language;
 - f. Revenue;
 - g. Expenditures for maintenance and upkeep of district facilities.
- 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 shall 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 will include the reasons for the denial with suggested remedial measures. The applicant may then resubmit the proposal. The Board shall 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 shall 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 shall 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. Reporting of suspected child abuse (ORS 419B.045);
 - 2. Sexual harassment (ORS 342.700, 342.704);
 - 3. Pregnant and parenting students (ORS 336.640);
 - 4. Special English classes for certain children (ORS 336.079);
 - 5. Student conduct (ORS 339.250);
 - 6. Alcohol and drug abuse program (ORS 336.222);
 - 7. Student records (ORS 326.565);
 - 8. Oregon Report Card (ORS 329.115);
 - 9. Recovery of costs associated with property damage (ORS 339.270);
 - 10. Use of school facilities (ORS 332.172);

11. 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 charter 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;
- (3) Salary for professional staff or wages for classified staff;
- (4) Health benefits;
- (5) Leaves, including timing, commencement and duration of leave; voluntary and involuntary termination and return to work; whether the leave is paid or unpaid; and a description of benefits upon termination of leave (i.e., same, similar or available position and salary schedule placement);
- (6) Work year;
- (7) Working hours;
- (8) Discipline and dismissal procedures;

- (9) Arrangements to secure substitutes;
- (10) Arrangements to ensure that 50 percent of the total full-time equivalent teaching and administrative staff are licensed;
- (11) Hiring practices;
- (12) Evaluation procedures.

12. 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. All resident applicants will have their names written on a uniform sized card to be placed in a covered container. Names will be drawn individually until all available slots are filled. If slots remain after resident applications are placed, the remaining slots may be filled by nonresident applicants using an identical process. The drawing shall be made in the presence of at least two employees of the public charter school and two employees of the district.

However, 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 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;
- (4) At least 80 percent of the students enrolled shall be residents of the school district.¹

13. Transportation of students:

a. Public charter school law requires the following:

¹The 80 percent in-district requirement is in effect until January 1, 2004.

- (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.
14. The plan for performance bonding or insuring the public charter school sufficient to protect the district. Documentation shall be submitted prior to agreement approval.

a. Insurance:²

- (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 is 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 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

²Insurance requirements for individual public charter schools may vary and should be reviewed by legal counsel and an insurance representative.

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 additionally 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;
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 659.150 and 659.155);
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 (ORS 329.485 (1));
13. The academic content areas (ORS 329.045 (1));
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 State 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, certificate, Certificate of Initial Master or Certificate of Advanced Mastery to any public charter school student located in the district who meets to district's and state's standards for a high school diploma, certificate, Certificate of Initial Mastery or Certificate of Advanced Mastery.
 - L. A high school diploma, certificate, Certificate of Initial Mastery or Certificate of Advanced Mastery issued by a public charter school shall grant to the holder the same rights and privileges as a high school diploma, certificate, Certificate of Initial Mastery or Certificate of Advanced Mastery 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 the Oregon Department of Education.
- D. The public charter school shall submit to the Board quarterly financial statements that reflect the school's financial operations. The report shall include, but not be limited to, revenues, expenditures, loans and investments.

VII. Charter school Renewal (currently under revision as per OAR 581-020-0359)

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;
 - 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, the following shall occur:
 - 1. The district shall give the public charter school a 60-day written notification of its decision;
 - 2. The district shall state the grounds for termination and deliver notification to the business office of the public charter school;
 - 3. 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;
 - 4. 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;
 - 5. The public charter school may appeal the decision to terminate to the State Board of Education;
 - 6. If the sponsor reasonably believes that a public charter school is endangering the health or safety of the students enrolled in the public charter school, the sponsor may act to immediately terminate the approved charter and close the public charter school without providing the notice requirements;

7. 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 sponsor. Within 10 days of receiving the request for a hearing, the sponsor must provide the public charter school with the opportunity for a hearing on the termination
 8. Throughout the appeals process the public charter school shall remain closed at the discretion of the district;
 9. 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, 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.