

STATE BOARD OF EDUCATION – TOPIC SUMMARY

Topic: Charter School Waivers

Date: April 8, 2015

Staff/Office: Kate Pattison/Office of Learning

Action Requested: Informational Only Adoption Later Adoption Adoption/Consent Agenda

ISSUES BEFORE THE BOARD: The State Board of Education sets policy and makes decisions regarding individual charter schools across the state including the authority to grant specific waivers of certain provisions within Oregon Revised Statute Chapter 338. The Board and Department have raised questions regarding equity, ethics, and state policy direction for public charter school waivers. This work session is a dedicated time to address these questions and agree upon the Board's policy.

BACKGROUND: Since the establishment of the public charter school law, the Oregon State Board of Education has granted waivers according to ORS **338.025** (2) which states:

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.

On average, the State Board receives 10 waiver requests a year from public charter schools across the state. The most common waiver request is for charter schools to give enrollment priority to students of founders and employees. Twice, the State Board approved waivers to allow students who live within specific attendance boundaries to have enrollment priority. The State Board has also considered waivers related to virtual charter schools, location of a charter school outside the sponsoring district boundary, and teacher licensure requirements. (See attachment)

There are limitations to what the State Board of Education is able to waive, "the State Board of Education may not waive any appeal provision in this chapter or any provision under ORS 338.115 (1)(a) to (y), 338.120, 338.125 (4), 338.135 (2)(b) or 339.122" (ORS 338.025).

In January 2014, the US Department of Education published new non-regulatory guidance allowing federal charter school grant recipients to conduct weighted lotteries if allowed by the state's law or policy. This sparked discussions in Oregon regarding the current restrictions on such weighted lotteries. At this time, Oregon law does not allow for weighted lotteries beyond those priorities listed in ORS 338.125(3)(b). There is currently proposed legislation ([SB 820](#)) that would amend ORS 338 to allow public charter schools to give priority enrollment to underserved students. For this reason, weighted lottery waivers focused on giving enrollment priority to underserved students are not part of the recommended discussion for this work session.

Since the August 2014 retreat, the Board has engaged in a number of discussions on its policy regarding approving waivers. The following questions have continued to surface in each discussion:

- What information does the State Board need in order to make informed decisions about waivers?
- What criteria should be used when making decisions on waivers that give students enrollment priority in a public charter school?
- How long should a waiver granted by the State Board be in effect?
- Does granting a public charter school a waiver to allow children of the employees of the public charter school enrollment priority put the employee (a public official) at risk of an ethics violation?
- What responsibility does the State Board have to communicate a shift in policy and provide time for charter schools to adjust their policies?

In order for the State Board to move forward, the Board must consider these questions and agree upon a policy that can be consistently applied in the future. To help guide this discussion, the Board may consider the following recommendations:

1. Develop a rubric for evaluating waiver requests to understand how the public charter school's capacity to deliver on their mission and the evidence they have to support that the waiver would promote the development of programs by providers, enhance the equitable access by underserved families to the public education of their choice, extend the equitable access to public support by all students or permit high quality programs of unusual cost. The rubric could define or at least attempt to describe the State Board's expectations for charter school equity.
2. Identify a set of criteria or identify a rating for different types of waiver requests would need in order to receive a positive recommendation from staff and Board action.
3. Establish a standard policy for the length of time each approved waiver will be effective. For example, waivers may be approved for the duration of the charter contract term with the option of being renewed.
4. Identify what information and data would be necessary for the Board to consider for different types of waiver requests. For example, mission of the school, staff demographics, community outreach, marketing plan, student outcomes, research or data to support the claims, etc.
5. Determine whether or not a public charter school with an approved waiver should ever need to report back to the State Board regarding the effectiveness of the waiver.

Attachments

Oregon's Public Charter School Waiver Requests 1999-2014

Supporting Documents

Charter Schools Program, Title V, Part B of the ESEA, non-regulatory guidance, January 2014
State Policies Regarding Charter School Enrollment, December 2, 2014
Oregon Government Ethics Commission Letter, February 12, 2015
2015 Senate Bill 820 – Introduced

Oregon State Board of Education – Public Charter School Waiver Requests

#	Charter School	District	Request Date	Request Type	Action Type	Action Date	Charter Term
1	Willamette Valley Community School	Corvallis		Selection of students (students attending Alt. Ed. grandfathered in)	Approved		
2	Lourdes School	Scio	9-24-99	Waived from operational timeline	Approved	10-20-99	7-1-01
3	Molalla Options	Molalla River	9-24-99	Waived from operational timeline	Approved	10-20-99	
4	Armadillo Technical Institute	Phoenix-Talent	7-9-01	20% out-of-district cap	Approved		7-13-00
5	McCoy Academy	Portland	1-18-02	Waive PERS requirement (not joint with district)	Denied	2-2002	
6	Pioneer Youth Corps Academy (PYCO)	Eugene	1-18-02	Waive PERS requirement (not joint with district)	Denied	2-2002	
7	Lighthouse School	North Bend	3-25-02	Waive the 80% ADMw payment (ORS 338.155) in exchange for a 19 % ADMw funding and 19% in-kind services	Approved	4-18-02	3-11-02
8	Lighthouse School	North Bend	3-27-02	Admission preference for children of charter school developers	Approved	4-18-02	3-11-02
9	Howard Street Charter School	Salem-Keizer	3-28-02	<ul style="list-style-type: none"> • Enroll siblings of 9th graders • Grandfather in current 6th and 7th graders 	Approved	4-18-02	6-06
10	Sand Ridge Charter School	Lebanon Community	4-23-02	Request for waiver from 20% out-of-district cap (joint with the district)	Approved	6-18-02	
11	Lourdes School	Scio	4-29-02	Request for waiver from 20% out-of-district cap (joint with the district)	Approved	5-16-02	7-1-01
12	Center for Advanced Learning	Gresham-Barlow	11-21-02	<ol style="list-style-type: none"> 1. Permission to have multiple districts as sponsors 2. Permission to waive having a comprehensive educational program 3. Permission to waive the percent of support accompanying each student from 95% to no more than 50% 	# 1 – Approved	2-20-03	
13	Armadillo Technical Institute	Phoenix-Talent	2-5-03	Waive PERS requirement, alternate retirement plan (not joint with district)	Denied		7-13-00
14	Willamette Leadership Academy	Fern Ridge	9-9-03	Request for waiver from 20% out-of-district cap (joint with the district)			

#	Charter School	District	Request Date	Request Type	Action Type	Action Date	Charter Term
15	Jane Goodall Environmental Middle School	Salem-Keizer	6-21-04	Request from 338.125-allows current 6 th and 7 th grade students priority enrollment. Lottery will be held for 6 th grade. Only for 2004-05 school year. (joint with the district)	Approved	9-16-04	6-22-04
16	Phoenix School of Roseburg	Douglas County 4	7-20-04	<ul style="list-style-type: none"> Request from 338.125(2)-to allow an in-district student enrollment "cap" of 140 students of the 195 student capacity. Remaining student population will be out-of-district students. Request from 338.125-to establish concurrence by enrolling student, parents and staff that attendance at Phoenix is the best decision for the student. Request from 338.135-to allow 40% of teaching/administrative staff to teach with a restricted, transitional license. Said teachers will enter a TSPC-approved MAT program and make adequate annual progress toward licensure. Initial licensure will be achieved within three years. 	1 st bullet granted, other two denied.	9-16-04	
17	Network Charter School	Eugene	9-1-04	Request from 338.135-to allow teaching/administrative staff to teach with a regular, transitional license and be considered licensed staff	Approved	9-16-04	
18	Oregon Coast Technology Charter School	North Bend	3-8-06	Allow for successful continuation of the current technology program			
19	Springwater Environmental Sciences School	Oregon City	4-20-06	<ul style="list-style-type: none"> Request to admit siblings if a sibling is drawn in the lottery Founders children given priority in the lottery, will be admitted Employee children given priority in the lottery to be admitted 	Approved		7-1-06
20	Lighthouse School	North Bend	4-20-06	Request from 338.135-to allow teaching/administrative staff to teach with a regular, transitional license and be considered licensed staff for the 06-07 school year	Approved	4-20-06	3-11-02

#	Charter School	District	Request Date	Request Type	Action Type	Action Date	Charter Term
21	Cascade Academy (Cascade Heights Charter School)	North Clackamas	5-25-06	Admission preference for children of charter school developers	Approved		
22	Sweet Home Charter School	Sweet Home	7-17-06	<ul style="list-style-type: none"> No preference district students, resident/non-resident the same Preference to current students and siblings 			
23	Kings Valley Charter School	Philomath	2-15-07	<ul style="list-style-type: none"> Establish geographic boundary for kindergarten enrollment priority 	Denied	3-07	8-30-01
24	Oregon Connections Academy	Scio	2-15-07	<ul style="list-style-type: none"> Waiver from ORS 338.165 (SSF/Special Ed distribution formula) 			
25	Madrone Trail School	Medford	2-15-07	<ul style="list-style-type: none"> Preference for founding members and employees Preference for siblings, if one is selected first CS located in district that is not the sponsor 	Approved Approved Denied		
26	Sage Community Charter School	Klamath County	5-18-07	Admission preference for children of charter school developers	Approved for 2007-08 school year		6-07
27	Forest Grove Community Charter School	Forest Grove	5-18-07	Admission preference for children of charter school developers, board members and staff	Approved for 2007-08 school year		
28	Insight School of Oregon	Lincoln County	9-7-07	Request waiver from OAR 338.125, 50% of students must be in-district.			
29	West Lane Technical Learning Center	Fern Ridge	11-15-07	Request waiver from OAR 338.125, 50% of students must be in-district.	March 2008		
30	Oregon Connections Academy	Scio	11-27-07	<ul style="list-style-type: none"> waiver from ORS 338.165 (SSF/Special Ed distribution formula) 			
31	Alliance Charter Academy	Oregon City	Dec 2. 2007	Admission preference for children of charter school staff for Spring 2008 lottery and no more than 5%	First read 1.17.2008 Bring back for consent agenda in Feb.	Feb. 2008	January 2007
32	Oregon Virtual Academy Charter School	North Bend	1-17-08	Request waiver from OAR 338.125, 50% of students must be in-district.	Information only		

#	Charter School	District	Request Date	Request Type	Action Type	Action Date	Charter Term
33	Sisters Web Academy	Sisters	3.25.2008	50% waiver request	Denied 5/15/2008		
34	Marcola Web Academy	Marcola	3.25.2008	50% waiver request	Denied 5/15/2008		
35	Oregon Virtual Academy Charter School	North Bend	06/19/08	50%	Approved	06/19/08	
36	Sisters/Marcola Web Academy	Sisters/Marcola	06/19/08	50%	Approved with conditions	6/19 Withdrawn July 2008	
37	Sisters Academy Fine Arts	Sisters	06/19/08	Active Enrollment – 25	Approved	06/19/08	
38	Four Rivers	Ontario	06/19/08	Lottery	Approved	06/19/08	
39	ORCA	Scio	12/12/08	50%	Approved	02/19/09	
40	Community Roots	Silver Falls	02/19/09	Lottery	Approved	02/19/09	
41	Muddy Creek	Corvallis	02/19/09	Lottery	Approved	02/19/09	
42	Opal	Portland	04/16/09	Lottery	Approved	04/16/09	
43	ORCA	Scio	04/16/09	50%	Approved	06/19/09	
44	West Lane Technology	Fern Ridge	06/19/09	50%	Approved	06/20/09	
45	Three Rivers	West Linn-Wilsonville	08/28/09	Lottery	Approved	08/28/09	
46	Prospect	Prospect	10/23/09	Enrollment Priority	Approved	10/23/09	
47	Sisters Academy Fine Arts	Sisters	12/04/09	Active Enrollment – 25	Approved	12/04/09	
48	Village School	Eugene	01/29/10	Enrollment Priority	Approved	01/29/10	
49	Portland Village	Portland	03/11/10	Enrollment Priority	Approved	03/11/10	
50	Portland Village CS	Portland	8/6/10	Enrollment Priority	Approved	10/29/10	
51	ACE	Reynolds	9/28/10	Enrollment Priority – All 4 SDs	Approved	12/9/2010	

#	Charter School	District	Request Date	Request Type	Action Type	Action Date	Charter Term
52	Four Rivers	Ontario/SBE	10/26/10	Enrollment Priority – Employees/Siblings	Approved	12/9/2010	
53	CAL	Gresham-Barlow	9/23/10	Enrollment Priority – All 3 SDs	Approved	1/21/2011	
54	Oregon Connections Academy	Scio	2/11/11	50%			
55	Oregon Virtual Academy	North Bend	2/14/11	50%			
56	Ivy School	Portland	1/8/11	Enrollment Priority	Approved		
57	Coburg Charter School	Coburg	3/30/11	Enrollment Priority	Approved	4/14/11	
58	Alliance Charter Academy	Oregon City	3/1/11	Enrollment Priority	Approved	4/14/11	
59	Trillium Charter School	Portland	2/21/11	Enrollment Priority	Approved	4/14/11	
60	Madrone Trail Charter School	Medford	3/1/11	Enrollment Priority	Approved	4/14/11	
61	Oregon Virtual Academy	North Bend		50%			
62	Oregon Connections Academy	Scio		50%			
63	Charter School Waiver Requests	ODE			N/A		
64	Alliance Charter Academy	Oregon City	4/21/11	50%	N/A		
65	North Powder Charter School	North Powder	4/11/11	Enrollment Priority	Approved	5/19/11	
66	Alliance Charter Academy	Oregon City	4/21/11	50%	Approved	6/24/11	
67	Four Rivers Community School	Ontario/SBE	4/25/11	Enrollment Priority	Approved	6/24/11	

#	Charter School	District	Request Date	Request Type	Action Type	Action Date	Charter Term
68	MITCH	Tigard-Tualatin	6/1/11	Enrollment Priority	Approved	6/24/11	
69	West Lane Tech Learning Center	Fern Ridge	5/31/11	50%			
70	Coburg Community Charter School	Eugene		Enrollment Priority – attendance boundary	Approved	3/2012	
71	Sauvie Island Charter School	Scappoose		Enrollment Priority – geographical boundary	Approved	3/2012	
72	LeMonde Charter School	Portland		Enrollment Priority	Approved	3/2012	
73	JGEMS	Salem-Keizer		Enrollment Priority	Approved	3/2012	
74	Four Rivers Community School	ODE		Enrollment Priority	Approved	4/2012	
75	Hope Chinese Charter School	Portland		Enrollment Priority	Approved	4/2012	
76	Portland Village School	Portland		Enrollment Priority	Approved	4/2012	
77	Willamette Leadership Academy	Springfield		Enrollment Priority – former district	Approved	4/2012	
78	Paisley Charter School	Paisley		Registered/Licensed Teachers	Approved	6/2012	
79	Gresham-Barlow Web Academy	Gresham-Barlow		Term of Renewal Contract	Approved	6/2012	
80	REALMS	Bend-La Pine		Enrollment Priority	Approved	1/2013	
81	ORVED East	Sherman Co		Enrollment Priority – Geographical Boundary	Denied	3/2013	
82	ORVED West	Gaston		Enrollment Priority – Geographical Boundary	Denied	3/2013	

#	Charter School	District	Request Date	Request Type	Action Type	Action Date	Charter Term
83	Sherwood Charter School	Sherwood		Enrollment Priority	Approved	3/2013	
84	Ridgeline Montessori Charter School	Eugene		Enrollment Priority	Approved	4/2013	
85	Arco Iris Charter School	Beaverton		Enrollment Priority	Approved	5/2013	
86	Opal Charter School	Portland		Enrollment Priority	Approved	9/2013	
87	Eola Hills Charter School	Amnity		Physical location outside sponsoring district	Approved	10/2013	
88	Madrone Trail Charter School	Medford		Enrollment Priority – Prior Waldorf Experience	Denied	10/2014	
89	Lewis and Clark Montessori Charter School	Gresham-Barlow		Enrollment Priority	Approved	10/2014	1 year
80	Kairos PDX	Portland		Enrollment Priority	Approved	10/2014	1 year
81	Bend International School	Bend La Pine	3/24/2015	Enrollment Priority/Weighted Lottery	Pending	4/2015	