

# Oregon State Board of Education

*May 19, 2016*

<p><b>SUBJECT:</b> Operations, Public Charter School Facility Location / OAR 581-026-0600</p> <p><b>STAFF NAME &amp; OFFICE:</b> Kate Pattison, Cindy Hunt/Office of the Deputy Superintendent</p> <p><b>SUMMARY:</b> Creates procedure for a school district to file a complaint against a public charter school that has opened a school or facility within school district without providing the school district written notice prior to the first day students attend classes at the school or receive instruction at the facility.</p> <p><input checked="" type="checkbox"/> <b>New Rule</b>    <input type="checkbox"/> <b>Amend Existing Rule</b>    <input type="checkbox"/> <b>Repeal Rule</b></p>	<p><input type="checkbox"/> <b>Consent Agenda</b></p> <p><input checked="" type="checkbox"/> <b>First Reading</b></p> <p><input type="checkbox"/> <b>Action (Adoption)</b></p> <p><input type="checkbox"/> <b>Information</b></p>
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## BACKGROUND

Previously under ORS 332.158, if a school district wishes to own, lease and/or operate a facility inside the boundaries of another school district, then that district must seek and gain permission from the school district in which that facility would be located. This requirement did not extend to charter schools.

The 2015 Legislature adopted House Bill 3044 and the Governor signed the Bill into law. The new law maintains that a school district must receive permission and now requires a public charter school to notify the school board of any other school district, and the school board of the charter's sponsor district, if the charter school uses real property in a school district that is not the district of the sponsor school. The public charter school does not need permission, but State School funds may be withheld if they do not provide appropriate notice.

**332.158 Creation of school in another school district; written permission or written notice.** (1) A district school board may lease, purchase, construct, reconstruct, improve, repair, equip or furnish a school in another school district and may expend bond proceeds or other funds available to the board for such purposes if the board has the written permission of the district school board of the school district in which the school will be located. The written permission required by this subsection must be obtained prior to the first day on which students will attend classes in the school.

(2) A public charter school may lease, purchase, construct, reconstruct, improve, repair, equip or furnish a school, or any other facility where students receive instruction, in another school district and may expend funds available to the public charter school for such purposes if the public charter school provides written notice to the sponsor of the public charter school and to the district school board of the school district in which the school or facility will be located. The written notice required by this subsection must be provided prior to the first day on which students will attend classes in the school or receive instruction at the facility.

(3) If a district school board or public charter school opens or operates a school or facility in another school district and does not obtain the written permission required by subsection (1) of this section or provide the written notice required by subsection (2) of this section, the board of the school district in which the school or facility has been opened or operated may file a

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complaint with the Superintendent of Public Instruction. Upon receipt of a complaint, the superintendent shall schedule a contested case hearing pursuant to ORS 183.413 to 183.470.

(4) Upon a determination that the written permission required by subsection (1) of this section was not obtained or the written notice required by subsection (2) of this section was not provided, the superintendent shall withhold State School Fund moneys otherwise allocated to the school district or due to the public charter school under ORS 338.155. The superintendent shall withhold moneys until the written permission is obtained or the written notice is provided, or until some other date determined by the superintendent. [2001 c.169 §2; 2015 c.75 §1]

These proposed rules clarify the process for a public charter school to give written notice and for a school district board to file a complaint if written notice is not provided.

A hearing was conducted on October 21, 2015. There were no comments submitted during the hearing. Therefore, the hearing report is not included with the docket.

### **SUMMARY OF PREVIOUS BOARD ACTION**

The Board originally heard this draft rule at the September 17, 2015 meeting. The Board raised a few concerns about the timelines required for charter school notice. The Department thought it was possible a bill would be introduced in the 2016 legislative session to reverse the change in the statute that allows this to happen. No legislative changes were made to this provision in the statute, so the Department is bringing this back to the Board for discussion and approval. Revisions have been made to the draft based on the discussion at the 2015 meeting.

### **POLICY ISSUE OR CONCERNS (IF APPLICABLE)**

Will public charter schools open other campuses or new schools in districts that do not sponsor the charter school? If public charter schools do open new campuses or schools, it is unclear how this will affect special education, funding, and other requirements related to “the district in which the charter school is located.”

### **CHANGED SINCE LAST BOARD MEETING? (IF APPLICABLE)**

- N/A; first read—hasn’t been before board
- No; same as last month
- Yes – As follows: Added 30 day notice and supporting documentation from the sponsoring school district as requirements for public charter school written notice as demonstrated in the edits to the rules attached.

### **EFFECT OF A “YES” OR “NO” VOTE (AS APPROPRIATE)**

If “YES” – Public charter schools will be required to provide at least 30 days’ notice to districts in which they intend to open a new facility, campus, or school. The notice must include supporting information from the sponsoring school district regarding the legal responsibility as the sponsor to provide oversight and manage any responsibilities of “the district in which the public charter school

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is located.” Districts will be allowed to file a complaint with the Department of Education if a public charter school does not meet the requirements for proper notice. State School Funds may be restricted if the public charter school is found to have not complied with the notice requirements.

If “NO” – The statute would provide the only direction on this and charter schools could provide notice any time prior to the first day on which students will attend classes. Additionally, the sponsoring district will not be required to acknowledge the charter school’s facility and potential implications for the responsibility of the sponsor.

## **STAFF RECOMMENDATION**

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Approve     Approve next month     No recommendation at this time

**Hearing Date: October 21, 2015**

***Prompted by:***

State law changes     Federal law changes     other

## **ATTACHMENTS (e.g., OAR with “track changes” ...)**

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Attachment 1: Draft OAR 581-026-0600

Attachment 2: Notice provided to Districts and Charter Schools of Rule Making

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**Number: 581-026-0600**

**Title: Public Charter School Facility Location**

- (1) As used in this rule:
  - a. "Written notice" means written notice that is mailed, faxed, e-mailed or personally delivered by the party required to provide the written notice.
- (2) A public charter school providing written notice to a school district to open or operate a school or facility within the boundaries of a school district that is not the sponsor, must provide notice that:
  - a. Is submitted to the district in which the new facility or school will be located at least 30 days prior to the first day on which students will attend classes in the school or receive instruction at the facility; and
  - b. Includes a letter of support from the sponsoring district or a copy of the charter contract that demonstrates the sponsor will retain all responsibility for all regulations that refer to "the district in which the public charter school is located." These responsibilities include, but are not limited to, special education services, funding, and oversight.
- (3) The board of a school district that is not the sponsoring school district of the public charter school may file a complaint with the Superintendent of Public Instruction pursuant to ORS 332.158(3) against the public charter school if:
  - a. The public charter school opens or operates a school or facility within the boundaries of that district; and
  - b. The public charter school did not provide written notice to the district school board of use of the school or facility at least 30 days prior to the first day on which students will attend classes in the school or receive instruction at the facility;
  - c. The written notice provided by the public charter school does not include a letter of support from the sponsoring school district or a copy of the charter contract that demonstrates the sponsor retains all responsibility for all regulations that refer to "the district in which the public charter school is located"; and
  - d. The public charter school or facility was not already in operation on January 1, 2016.
- (4) The complaint must be in writing and may delivered by mail, fax or e-mail or by personally delivering a copy to the Superintendent of Public Instruction and must contain:
  - a. The name of the school district making the complaint;
  - b. The name and contact information of a member of the board or district staff person who will act as primary contact for the complaint;
  - c. The name of the public charter school operating the facility;
  - d. The primary physical address of the public charter school operating the facility;
  - e. The physical address of the school or facility being operated by the public charter school in the offended district; and
  - f. A brief statement explaining the facts underlying the complaint.
- (5) The school district board must provide written notice of the complaint by mail, fax, e-mail or personal delivery to the public charter school and the sponsoring district on the same date the complaint is provided to the superintendent.
- (6) Upon receipt of the complaint the superintendent shall schedule a contested case hearing pursuant to ORS 183.413 to 183.470.
- (7) Upon a finding that the public charter school has operated a school or facility in the school district without providing the board of the school district written notice:

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- a. The superintendent shall withhold State School Fund moneys due to the public charter school under ORS 338.155.
  - b. The superintendent shall withhold moneys until the written notice is provided by the public charter school to the district school board, and a copy of the written notice is provided to the public charter school's sponsoring district and the superintendent.