BACKGROUND

Public Charter School Waivers
The State Board of Education has been granted the authority to waiver certain provisions of the Public Charter School Statutes in ORS Chapter 338. The standards and process for requesting a waiver of ORS 338 have been set forth in OAR 581-026-0130 and the 2019 Process to Request a Charter School Waiver.

ORS 338.025 Rules; waiver of provisions of chapter; exceptions.
(1) The State Board of Education may adopt any rules necessary for the implementation of this chapter. The rules shall follow the intent of this chapter.
(2) 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. The State Board of Education may not waive any appeal provision in this chapter or any provision under ORS 338.115 (1)(a) to (aa), 338.120, 338.125 (4), 338.135 (2)(b) or 339.122.

(1) A public charter school may petition the State Board of Education for a waiver of any provision of ORS 388. The written petition must specify the reason(s) the charter school is seeking the waiver and any other relevant information.
(2) The public charter school must notify the sponsor if a waiver under this section is being considered. Waivers granted by the State Board to a charter school may require amending the charter under the provisions of OAR 581-026-0100 (7).
(3) The State Board of Education, upon receipt of a waiver petition, will review the petition and may grant the waiver upon a showing that approving the waiver would:
   (a) Promote the development of programs by providers;
   (b) Enhance the equitable access by underserved families to the public education of their choice;
   (c) Extend the equitable access to public support by all students; or
   (d) Permit the development of high quality programs of unusual cost.
(4) The State Board of Education may not waive any review provision under the Act or any provision under ORS 338.115(1).
ODE Staff Analysis of Waiver Request:

The charter school is requesting to waive ORS 338.125(3), which includes the requirement that students who apply to the charter school must be selected through a lottery if the number of applicants exceed the charter school’s capacity. This statute allows a public charter school to give priority enrollment to students who reside in the attendance boundary of a converted school public school, students who were enrolled in the prior year, and siblings of current students. For the students listed in this waiver request, the school is asking that they do not need to be limited to the standard enrollment priorities in the statute below. The school will still be required to comply with all other subsections of ORS 338.125.

The ODE charter school specialist and seven other Department staff from across the agency reviewed the waiver applications for content and application of an equity lens. On Thursday, May 2, 2019 the review team came together to hold a Review Hearing for the schools applying for waivers. During the hearing, the ODE team members asked the charter school leaders clarifying questions and further probed for understanding of the school’s need for the requested waiver. The charter school had the opportunity to revise the waiver application and resubmit the narrative form.

ORS 338.125 Student enrollment; nonresident students; appeals; written notices. (1) Student enrollment in a public charter school is voluntary.

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

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

(c) A public charter school may not limit student enrollment based on race, religion, sex, sexual orientation, ethnicity, national origin, disability, the terms of an individualized education program, income level, proficiency in the English language or athletic ability but may implement a weighted lottery for historically underserved students as provided by subsection (3)(d) of this section.

(3)(a) Except as provided by paragraphs (b) and (c) of this subsection, if the number of applications from students who reside in the school district exceeds the capacity of a program, class, grade level or building, the public charter school shall select students through an equitable lottery selection process. An equitable lottery selection process may incorporate the provisions described in paragraph (d) of this subsection.

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

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

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

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

(iv) The school district board, through board action, approved the public charter school giving priority as described in this paragraph.
(B) Nothing in this paragraph requires an amendment to a charter. A school district board may take an action described in subparagraph (A)(iv) of this paragraph at any time during the term of a charter.

(c) After a public charter school has been in operation for one or more years, the public charter school may give priority for admission to students who:
   (A) Were enrolled in the school in the prior year;
   (B) Have siblings who are presently enrolled in the school and who were enrolled in the school in the prior year; or
   (C) If the public charter school is a party to a cooperative agreement described in ORS 338.080, reside in the school district that is the sponsor of the public charter school or in a school district that is a party to the cooperative agreement.

(d) For the purpose of ameliorating the impact of discrimination against historically underserved students, a public charter school may select students through a weighted lottery that favors historically underserved students. As used in this paragraph, “historically underserved students” are at risk because of any combination of two or more factors including their race, ethnicity, English language proficiency, socioeconomic status, gender, sexual orientation, disability and geographic location.

SUMMARY OF PREVIOUS BOARD ACTION

The State Board of Education has granted two previous waivers for Alliance Charter Academy School:
   - 02/2008 Enrollment priority for children of employees for no more that 5% of enrollment
   - 04/2011 Enrollment priority for children of employees for the 2011-12 school year

POLICY ISSUE OR CONCERNS

The public charter school should include priority enrollment of staff children as a benefit of any employee of the public charter school to mitigate any ethics concerns.

The Alliance Charter Academy’s current charter contract is from August 14, 2018 – August 31, 2023

EQUITY IMPACT ANALYSIS

See application narrative provided by the requestor.

FISCAL ANALYSIS

There is no fiscal impact on the Department or the State Board of Education.
EFFECT OF A “YES” OR “NO” VOTE

Yes = If the Board grants the waiver, children of employees will go through the application and lottery process like all other students. They will then be enrolled after siblings. This priority will be limited to 5% of the school enrollment, which will be no more than 20 of the 395 students. This priority will only be applied to students enrolling during the current charter contract that ends August 31, 2023. The school will need to track data on the impact this waiver makes to their school and present the data with any subsequent waiver request.

No = Alliance Charter Academy School will not be allowed to give priority enrollment to students beyond what is allowed in ORS 338.125

ATTACHMENTS

Attachment 1: Alliance Charter Academy School Waiver Request - Revised
Attachment 2: Alliance Charter Academy School District Letter
Attachment 3: Alliance Charter Academy School 2017-18 Report Card
Attachment 4: Alliance Charter Academy School 2017-18 Detail Sheet