



ROB S. SAXTON
Deputy Superintendent of Public Instruction

September 9, 2013

Jollee Patterson
General Counsel
501 North Dixon Street
Portland, OR 97227

RE: Prohibitions on the use of seclusion cells

Dear Ms. Patterson:

This is in response to your August 30, 2013 letter requesting guidance on the implementation of House Bill 2756. We appreciated your willingness to allow us to visit Pioneer School and view the seclusion units that were used prior to the 2013-14 school year. As you know, we are also charged with developing standards for seclusion rooms and are in the process of drafting proposed standards. Viewing the seclusion units will help to inform us on those standards.

We also note that Portland Public Schools has clearly communicated to its staff and the Department of Education, that the rooms will not be used for seclusion of students during the 2013-14 school year and that the doors of the rooms have been removed to ensure this.

During the 2013 session, the Oregon Legislature passed House Bill 2756 which prohibits public education programs from purchasing, building, possessing and using "seclusion cells" or "freestanding" units built and used for the seclusion of students. The bill required the immediate dismantling and removal of "seclusion cells" from classrooms by July 1, 2013 and the removal from the school or public education program's premises by September 1, 2013.

Specifically, House Bill 2756 includes the following:

- The bill applies to all public education programs, meaning a program that:
 - Is for students in early childhood education, elementary school or secondary school;
 - Is under the jurisdiction of a school district, an education service district or another educational institution or program; and
 - Receives, or serves students who receive, support in any form from any program supported, directly or indirectly, with funds appropriated to the Department of Education

- Seclusion means the student is physically prevented from leaving the unit or room, or believes they are prevented from leaving; and the student is alone or isolated from other students.
- Public education programs may not purchase, build or otherwise take possession of a seclusion cell; and may not use a seclusion cell.
- Seclusion cell is defined as a freestanding, self-contained unit, whether attached to the wall or not.
- Nothing prevents a public education program from using seclusion as allowed under sections 1 to 6, chapter 665, Oregon Laws 2011.
- Public education programs must ensure that all seclusion cells are removed from the classroom by July 1, 2013; and must remove seclusion cells from the premises of the public education program no later than September 1, 2013.

In providing guidance as to whether the units at Pioneer School are within the meaning of "seclusion cell" as provided in HB 2756, we considered both the language of the bill and the legislative intent.

We believe the key is whether the Pioneer seclusion units are considered to be "free-standing and self-contained." While the bill does not define these terms we believe the following statements are true regarding the Pioneer seclusion rooms, and that the units are illustrative of free-standing, self-contained units:

- The units have their own walls and ceiling.
- The walls of the units have a different texture and color from the actual walls of the classroom.
- The units appear to have fans for individual ventilation systems.
- The units have individual light switches that are separate from the rest of the classroom.
- The units appear to be not part of the building structure but built as an addition to an existing classroom.
- PPS staff also indicated during the visit that they were "free-standing" and could be removed from the classroom without impacting the integrity of the building.

Additionally, a review of the legislative intent of the bill indicates that multiple legislators who voted on the measure believed that the bill would prohibit the use of the seclusion units that were specifically at Pioneer School. Pictures of the seclusion units at Pioneer were presented to the House Education Committee as one illustration of a "seclusion cell" that would be prohibited by the bill. With the exception of the removal of the door, these pictures continue to accurately depict the units at Pioneer.

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While we appreciate that the rooms were built to address student safety concerns and have several features to ensure that students are not injured while in the rooms, the language and intent of the legislation is clear. The seclusion units at the Pioneer School are considered to be seclusion cells, and the Portland Public Schools is required to immediately remove the units from the premises of Pioneer School.

Sincerely,



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