

August 8, 2024

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To: Multnomah County HB 4002 Implementation Leadership Team Members:  
Multnomah County Chair Jessica Vega Pederson  
Multnomah County District Attorney Mike Schmidt  
Multnomah County Sheriff Nicole Morrisey O'Donnell  
Portland Police Chief Bob Day  
Gresham Police Chief Travis Gullberg  
Multnomah County Health Department Director Rachael Banks  
Multnomah County Department of Community Justice Director Denise Peña  
Metropolitan Public Defenders Multnomah County Director Grant Hartley  
Multnomah County District Attorney-Elect Nathan Vasquez

**Re: Deflection Center at 900 Southeast Sandy Blvd.**

My law firm represents Escuela Viva Community School, an acclaimed bilingual childcare center and preschool serving approximately 75 children at 900 Southeast Pine St in Portland.

Escuela Viva opened in 2004 and has operated from its Central Eastside location on Pine St since 2010. Since Fall 2022, Escuela Viva has participated in Multnomah County's Preschool for All program, offering tuition-free attendance to its preschool students. Escuela Viva has helped to fill a still-dire childcare shortage in Portland and is the only preschool and childcare center in the Central Eastside. It is committed to the security of its students and staff, and is invested in the safety, cleanliness, and vibrancy of Portland's Central Eastside.

Escuela Viva is alarmed by your stated intention to open by September 1 a drug "Deflection Center" at 900 Southeast Sandy Blvd—*one block* from Escuela Viva, where 75 children play outdoors five days a week. Escuela Viva strives to be a welcoming neighbor, but it is disturbed that the Deflection Center proposal completely disregards the safety of Escuela Viva children and staff, and it is dismayed that you have raced toward the artificial September 1 deadline behind closed doors, without the transparency Oregon law requires.

As you know, HB 4002 makes it fully optional for counties to adopt deflection programs and provides no deadline for such programs. And the statute says nothing at all about physical deflection centers. Your race to open the Deflection Center by September 1, after just weeks of planning and at millions of dollars of taxpayer expense, is improper and likely illegal, and threatens egregious harm to Escuela Viva and its community. As explained further below, Escuela Viva demands that you pause the Deflection Center plan.

## **I. The Deflection Center Proposal Disregards the Safety of Children and Staff.**

In numerous conversations with Escuela Viva's director and parents, County staff and representatives of proposed Deflection Center operator Tuerk House have not articulated any plan to ensure the safety of Escuela Viva children and staff just one block from the proposed Center.

For instance, Escuela Viva has not been presented with *any* external security plan to ensure the safety of the blocks surrounding the Center. Worse, Tuerk House confirmed that its security guards will *not* provide service outside of the building, and County staff *will not commit* to any law enforcement presence around the Center.

An external security plan is a basic precondition, not an option. Your plan proposes to bring desperate individuals addicted to fentanyl, heroin, and methamphetamine to the Deflection Center, confiscate their drugs, then allow them to walk out of the Center at any time—without mandatory transportation away from the Center. This plan will invite a flood of drug dealing into the neighborhood, and drug use, violent crime, and obstructive sidewalk camping will follow. Since the 900 Southeast Sandy site was disclosed in late June, we have already seen an increase in open fentanyl consumption nearby.

This dangerous environment will harm Escuela Viva students and staff. Escuela Viva previously suffered through a similar situation with the St. Francis Dining Hall at another nearby property (330 Southeast 11th Ave), which for years was an epicenter of drug dealing, drug use, camping, and violent crime. Escuela Viva staff and parents were *physically assaulted* while coming and going from the school, and the pervasive climate of lawlessness and danger traumatized children, parents, and staff. Many teachers resigned from Escuela Viva due to stress from the unsafe situation. High rates of teacher turnover reduced student capacity and frequently required children to stay home and miss instructional time. Now, the rise of extraordinary lethal fentanyl presents an even graver danger. For instance, Escuela Viva parents are terrified that their children could be inadvertently poisoned by discarded fentanyl paraphernalia while playing on the playground.

To compound the problem, County staff refuse to answer whether individuals brought to the Center will first be fingerprinted. Because many of the individuals brought to the Center will lack reliable picture ID, fingerprinting (which would happen at a police station booking) will be the only way to ensure that the Center is not bringing convicted sex offenders and violent criminals to within a block of Escuela Viva. Yet the Deflection Center proposal lacks this basic security measure.

The Leadership Team should well understand the risk of its hurried, cavalier approach to the Deflection Center. When the County rushed to open the Behavioral Health Resource Center in 2022 without any external security plan, the surrounding neighborhood erupted with drug trafficking, drug use, and crime, prompting Mayor Ted Wheeler to question: "How on earth could people be receiving meaningful treatment in a facility that has drug dealers outside 24 seven."

Sadly, it seems no lessons were learned, and the Leadership Team is racing to repeat this mistake one block from a childcare center and preschool. The predictable result this time could be even worse. Not only does the current Deflection Center plan present an unreasonable safety risk to children and the staff entrusted with caring for them, but if the blocks surrounding the Deflection Center explode with drugs and crime, Escuela Viva may be forced to close its Pine St location altogether. That would be a devastating blow to the staff it employs, the children and families it serves, and the County's Preschool for All program.

## **II. Deflection Center Planning Lacks Transparency and Community Input.**

The decision to place the Deflection Center at 900 Southeast Sandy was intentionally concealed from the public—and even from some members of the Leadership Team—until late June 2024, just two months before the Center was slated to open. Rather than let community weigh in on a controversial plan with an artificial deadline, the Leadership Team kept the public in the dark.

Your secret enactment of the deflection program and adoption of the Deflection Center proposal violated Oregon's Public Meetings law, ORS 192.610 *et seq.* Leadership continues to violate this law by meeting behind closed doors to amend the deflection program, despite demands from County Commissioners that Leadership meet in public, and despite warnings from voters that the Leadership Team is violating the law. The deflection plan itself also appears to violate HB 4002 by allowing individuals to repeatedly fail deflection without any legal consequence.

The Leadership Team's secrecy has allowed it to make misrepresentations about the closed-door meetings. For instance, County Chair Jessica Vega Pederson and her staff have routinely claimed that the Deflection Center must open at 900 Southeast Sandy on September 1 because law enforcement insist they need it. But on July 29, 2024, Portland Police Chief Bob Day circulated a letter to the Chair demanding that the County prioritize a "24/7 first responder drop-off center" to handle "uncooperative, angry, unresponsive, violent, threatening, and/or medically fragile" individuals—who the Deflection Center is not proposed to serve—and requested a location in East County, noting that the Central Eastside "already ha[s] multiple service organizations."

The ongoing lack of transparency has also spared the Leadership Team from publicly considering obvious alternatives to the Deflection Center, like using pre-existing County infrastructure and mobile services (as other counties will do) until the County opens a full-scale sobering center. Leadership has publicly ignored these options despite securing millions of dollars in state money through a grant application asserting that deflection would include a "non-drop off path."

County staff have tried to distract from Leadership's secrecy by promising to include Escuela Viva in a Good Neighbor Agreement advisory group. But with September 1 just weeks away, the group has not convened, and County staff have committed only to having a Good Neighbor "framework" in place on September 1. A Good Neighbor Agreement—which is nonbinding even in final form and will likely take months or years to negotiate—is merely another basic prerequisite to the

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County's proposed development. An *incomplete framework* for an unenforceable agreement is no substitute for the transparency that the Leadership Team is required to provide the public by law.

Tellingly, staff from Tuerk House—who currently work only in Maryland and expressed “surprise” at the conditions of Portland’s streets—have *never* opened a facility without a final Good Neighbor Agreement in place (among other basic preparations) and have never stood up a property in fewer than four months. Now, they are being asked to open a property on the other side of the country in one month. Not surprisingly, Tuerk House staff have been unable to guarantee any safety or security outside the walls of the 900 Southeast Sandy property.

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Given the egregious flaws in the current proposal to open the Deflection Center at 900 Southeast Sandy on September 1, Escuela Viva demands that the Leadership Team immediately pause the project and abandon the artificial September 1 deadline. If you do not, we will pursue all appropriate measures to prevent the opening of the Deflection Center, including litigation. Escuela Viva will also consider legal action against members of the Leadership Team, the County, and any contractors profiting from the Deflection Center if Escuela Viva students or staff, or Escuela Viva’s business, are harmed by the operation of the Center.

Sincerely,



David Watnick