

# Northwest Regional ESD

Code: KL-AR(2)

Revised/Reviewed:

## Appeal to the Deputy Superintendent of Public Instruction

An appeal process has been established by the Oregon Department of Education (ODE) by Oregon Administrative Rules (OAR) 581-002-0001 – 581-002-0023<sup>1</sup> for complaints that allege violation of OAR Chapter 581, Division 22 (Division 22 Standards), Oregon Revised Statute (ORS) 339.285 – 339.303 or OAR 581-021-0550 – 581-021-0570 (Restraint and Seclusion), or ORS) 659.852 (Retaliation).

The complainant may appeal the ESD's final decision for a complaint to the Deputy Superintendent of Public Instruction if:

1. The complainant has exhausted the ESD's complaint procedures except as otherwise allowed by Oregon Revised Statute;
2. The ESD failed to render a written decision within 30 days of the submission of the complaint at any step unless the ESD and complainant have agreed in writing to a longer time period for that step; or
3. The ESD failed to resolve the complaint within 90 days of the initial filing of the complaint, regardless of the number of steps in the ESD complaint process, unless the ESD and the complainant have agreed in writing to a longer time period.

The appeal may include a complaint alleging a violation of ORS 659.852 if the complainant alleges that retaliation occurred in response to a complaint for which the complainant received the ESD's final decision for a complaint.

The appeal must be received by ODE no later than:

1. One year after the date of the final decision by the ESD; or
2. If the ESD fails to resolve the complaint, no later than two years after the date on which the complainant first filed the complaint with the ESD.

The complaint upon which the appeal is based must have been initially filed with the ESD by the later of the following two dates:

1. The date occurring two years after the date on which the alleged violation or unlawful incident occurred or on which the complainant discovered the alleged violation or unlawful incident<sup>2</sup>; or

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<sup>1</sup> The following is not a representation of the complete rules. See complete rules available on the Oregon Administrative Rules.

<sup>2</sup> If the alleged violation or unlawful incident is of a continuing nature, the date on which the alleged violation or unlawful incident occurred is the most recent date on which the alleged violation or unlawful incident occurred.

2. The date occurring one year after the date on which the affected student graduated from, moved away from or otherwise left the ESD.

The appeal shall:

1. Be in writing;
2. Submitted in person, by mail, or electronically.

The appeal must contain:

1. The name of the person filing the appeal;
2. The phone number, address, or email address, if available, of the person filing the appeal;
3. The name of the student if the person filing the appeal is filing on behalf of the student;
4. A statement of the facts on which the appeal is based; and
5. Other information requested by ODE.

Upon receipt of an appeal, ODE will determine whether the appeal satisfies the requirements of OAR 581-002-0003 and OAR 581-002-0005.

After these determinations, ODE will give notice to the complainant and the ESD whether the appeal has been accepted.

If ODE has accepted an appeal and gave notice to the complainant and the ESD involved, the ESD shall submit a written response and all correspondence, documents, and other information ODE requested within 30 days of receipt of the notice.

The ESD's written response shall include:

1. A statement of facts;
2. A description of ESD action taken in response to the complaint; or if none was taken, an explanation of the reason(s) why no action was taken;
3. Any stipulation reached concerning settlement of the complaint; and
4. A list of any complaints filed with another agency by the complainant concerning the subject of the appeal to the extent that the ESD is aware of such complaints.

The Director of ODE may for good cause extend the time by which an ESD must make a submission described above.

Upon receipt of the ESD's written response, ODE will conduct an investigation to determine whether the ESD violated a rule or law described in OAR 581-002-0003.

ODE shall issue a final order pursuant to OAR 581-002-0017.